

TOWN OF JAMESTOWN  
ZONING BOARD OF REVIEW

**Application for Exception or Variation under the Zoning Ordinance**

Zoning Board of Review;

Jamestown, R. I.

Date September 18, 2020

Gentlemen:

The undersigned hereby applies to the Zoning Board of Review for an exception or a variation in the application of the provisions or regulations of the zoning ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Applicant Laura J. Carlson and Donald R. Carlson Address 20 Brook Street, Jamestown, RI  
52 Newport Street, Jamestown, RI  
same as applicant

Owner \_\_\_\_\_ Address \_\_\_\_\_

Lessee n/a Address \_\_\_\_\_

1. Location of premises: No. 20 Brook Street

2. Assessor's Plat 9 Lot 281

3. Dimensions of lot: frontage 220 ft. depth 100 ft. Area 22,000\* sq. ft.

4. Zoning Districts in which premises are located: Use R-8 Area 8,000 Height \_\_\_\_\_

5. How long have you owned above premises? 1 year

6. Is there a building on the premises at present? yes - 1 primary residence and 1 outbuilding  
outbuilding - 441 sq ft footprint; 776 sq ft living area

7. Size of existing building Principal building: 3063 sq ft living area

Size of proposed building or alteration 900 sq. foot footprint; 1161 sq ft living area

8. Distance of proposed bldg. or alteration from lot lines:

front 57.6 ft rear 15 ft left side 7 ft right side 185.7 ft

9. Present use of premises: 1 family in principal building; 2 story rental dwelling outbuilding per 1989 Regulatory Variance

10. Proposed use of premises: 1 family in principal building; 1 family in outbuilding

Location of septic tank & well on lot n/a

\* Lot 281 is contiguous with co-owned addition 8,000 sq ft lot (Plat 9 Lot 823) subject to conservation easement, resulting in a total lot size of 30,000 sq. ft.

11. Give extent of proposed alterations Remove existing nonconforming structure and replace with  
structurally and aesthetically improved building that is sited further from the rear lot line --15' from rear boundary  
rather than current 4' setback -- and fully compliant 7' setback from side boundary rather than existing 5'6" from  
side-line boundary.

12. Number of families for which building is to be arranged: single family

13. Have you submitted plans for above to Inspector of Buildings? yes

Has the Inspector of Buildings refused a permit? yes

14. Provision or regulation of Zoning Ordinance or State Enabling Act under which application for exception or variance is made:

Section 82-303 (Number of residential structures per lot);

Variance under Article 6 for a variance from Section 82-302, Table 3-2 (15' rear setback requested where 30' rear setback is required for principal structure)

Article 6 Sec 82-600 to 608 Special Use Permits & Variances

15. State the grounds for exception or variation in this case:

1) Existing nonconforming building is burdened by mold and potentially unstable ancient foundation; lacks sufficient ground floor space for bath and kitchen accessibility requirements for elderly residency;

2) Existing structure has a 1989 Regulatory Variance permitting special use as a dwelling unit and allowing a 5'6" side setback rather than the required 7' and a 4' rear setback rather than the required 30';

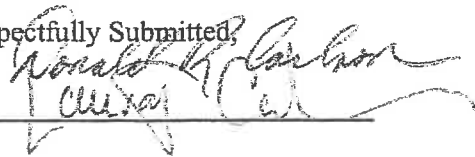
3) Moving the structure to the 30' rear setback line for the principal building would place the cottage too close to the primary residential structure, crowding the lot, compromising the visual integrity of the site layout from Brook Street, and destroying the historical aesthetic composition of the property;

4) The 1989 relief was made expressly contingent on the willingness of the owners to refrain from subdividing the property - the current owners are willing to continue this contingency if relief is granted. The relief requested is the least relief necessary given the option of subdividing.

5. The relief requested would not alter the neighborhood, and is requested due to the unique characteristics of the property.

Respectfully Submitted,

Signature



Address

20 Brook Street

Jamestown, Rhode Island

Telephone No. 917.576.2726

**NOTE: A LOCATION PLAN AND SKETCH AND DRAWINGS NECESSARY TO GIVE FULL INFORMATION MUST BE FILED WITH THE APPLICATION.**

**ADVERTISEMENT – LAURA J. CARLSON and DONALD R. CARLSON (PLAT 9 LOT 281)**

Application of Laura J. Carlson and Donald R. Carlson (OWNER) whose property is located at 20 Brook Street, and further identified as Tax Assessor's Plat 9, Lot 281 for:

1. a Variance from Article 3 (Application of District Regulations) Section 82-303 (Number of Residential Structures Per Lot) to construct a second principal structure; and
2. a Variance from Article 3 (Application of District Regulations) Section 82-302, Table 3-2 wherein a fifteen foot (15') rear yard setback is provided where thirty feet (30') is required for such second principal structure.

Said property is located in an R-8 Zone in the Village Special Development District and contains 22,000 square feet.



TOWN OF JAMESTOWN

P. O. Box 377

JAMESTOWN, RHODE ISLAND 02835

Town Hall - 423-0200

Town Offices - 423-0444

January 25, 1989

Mr. & Mrs. Warren O'Sullivan  
20 Brook Street  
Jamestown, R.I. 02835

Dear Mr. & Mrs. O'Sullivan:

At a meeting of the Jamestown Zoning Board of Review held on January 24, 1989 the following vote was passed:

A motion was made by Ms. Sheehan and seconded by Mr. Vandal to grant the request of Warren A. O'Sullivan and Kathryn F. O'Sullivan, whose property is located on Plat 9, Lot 281 for a Regulatory Variance from Article III, Section 331 (Number of Residential Structures), to permit conversion of the existing carriage house/nursery school to a one bedroom dwelling unit and from Article III, Section 320 (District Dimensional Regulations) to allow a 5'6" side set back rather than the required 7' and a 4' rear setback rather than the required 30' as shown on plans submitted with the application.

This relief is granted in accordance with Article VI, Section 610 in that the requested relief will not be contrary to the public interest and that conditions exist which are peculiar to the property.

This approval is subject to the condition that if lot 281 is subdivided at any time, this variance shall terminate.

This motion is based on the following findings of fact:

1. The property is located in a R-8 Zone and contains 22,000 square feet.
2. The property conforms in all other respects to the zoning ordinance.
3. Use of the carriage house for an apartment is an appropriate use in the neighborhood and will assist in the preservation of the Victorian property.

4. Retention of the outbuilding is preferrable to subdivision and/or removal of the carriage house.
5. Sufficient land is available for required parking without major changes to the site.

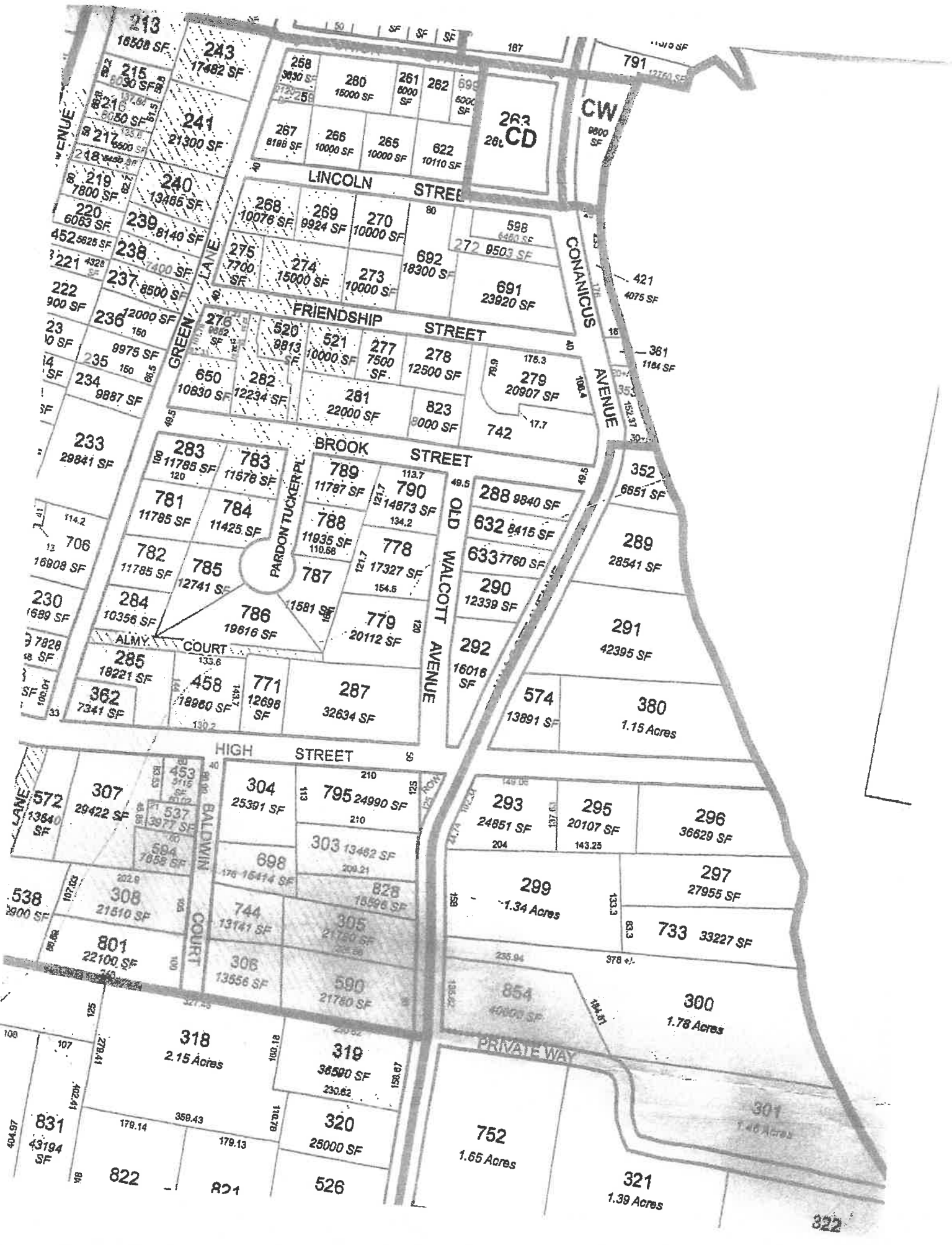
The motion carried by a vote of 5 - 0.

Very truly yours,

*M. S. Hellewell*

Martin S. Hellewell, Chairman  
Farmstown Zoning Board of Review

MSH/ps



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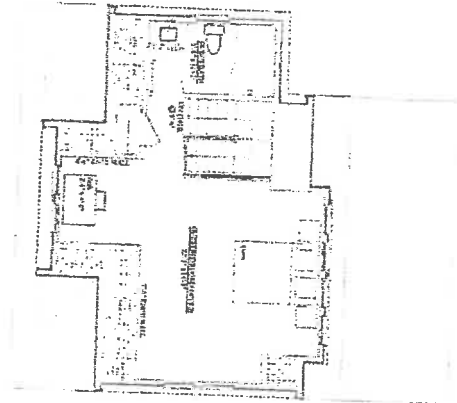
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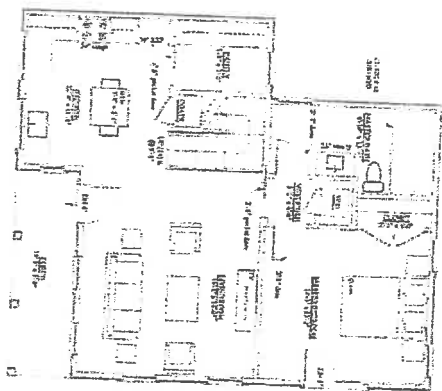
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2 SECOND FLOOR PLAN



1 FIRST FLOOR PLAN

SQUARE FOOTAGE - APPROX.	
EXISTING	960 SF
ALLOWED	187 SF
PERMITTED	762 SF
FIRST FLOOR	762 SF
SECOND FLOOR	196 SF
VERANDA	57 SF



**FRANK SHIRLEY ARCHITECTS**  
 40 Madison  
 Charleston, SC 29403  
 www.frankshirleyarchitects.com

**The CARLSON RESIDENCE**  
 53 Laurel Drive  
 Greenville, SC 29615

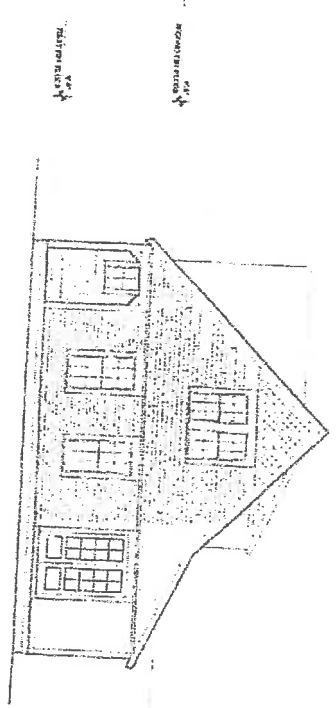
Proposed Change Fee:  
 \$1,000

**NOT FOR CONSTRUCTION**

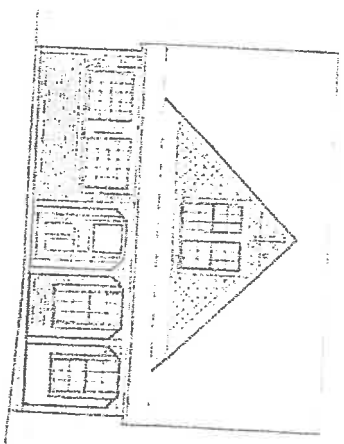
DATE: July 27, 2020

SCALE: 1/8" = 1'-0"

DRWING: SD-Final



2 FRONT ELEVATION



1 SIDE ELEVATION

**FRANK SHIRLEY  
ARCHITECTS**

40 West 2nd  
Cedar Rapids, IA 52402  
www.frankshirleyarchitects.com

Resident

Proposed Change for

**The  
CARLSON  
RESIDENCE**

20 Blossom  
Aurora, IA 52233

02/08/2020  
File  
11/2/20 2:44:00 PM

**NOT FOR CONSTRUCTION**

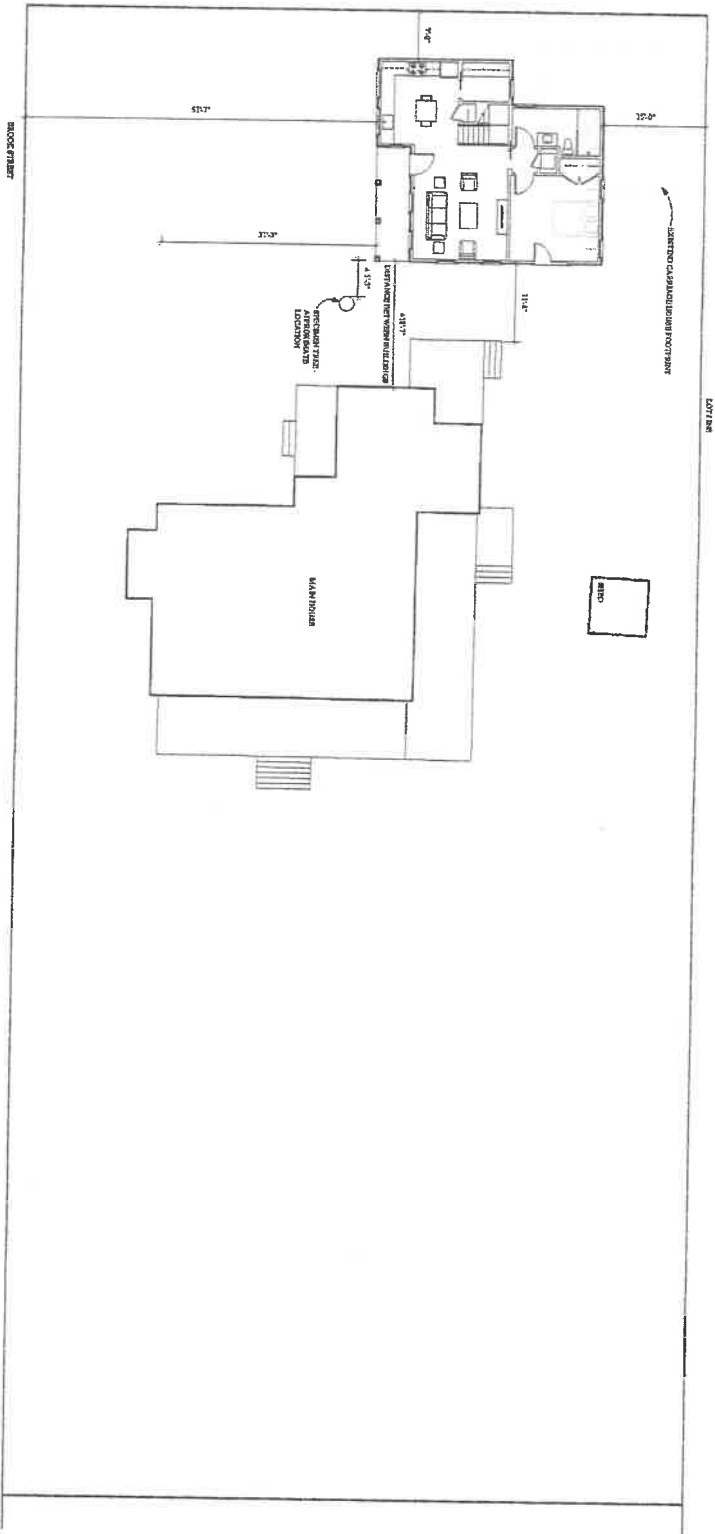
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**Elcivolutions**

July 27, 2020

**SD-Final**





1 SITE PLAN - OPTION of 15' SETBACK



**FRANK SHIRLEY**  
ARCHITECTS

40 Paul Drive  
Cambridge, MA 02139  
www.frankshirleyarchitects.com

PROJECT

Proposed Garage for:

The  
CARLSON  
RESIDENCE

20 Brook Street  
Jamaica, MA 02130

DATE / REVISIONS

2/20/2018 - EXISTING REVIEW

**NOT FOR CONSTRUCTION**

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DRAWING TITLE

Site Plan - Option of 15' setback

SCALE

0 5 10 15 20 FT

DATE

September 4, 2020

SHEET NUMBER

SD-6

PROPOSED ELEVATION  
EAST ELEVATION  
1/2" = 1'-0"

EXISTING ELEVATION  
EAST ELEVATION  
1/2" = 1'-0"

PROPOSED ELEVATION  
WEST ELEVATION  
1/2" = 1'-0"

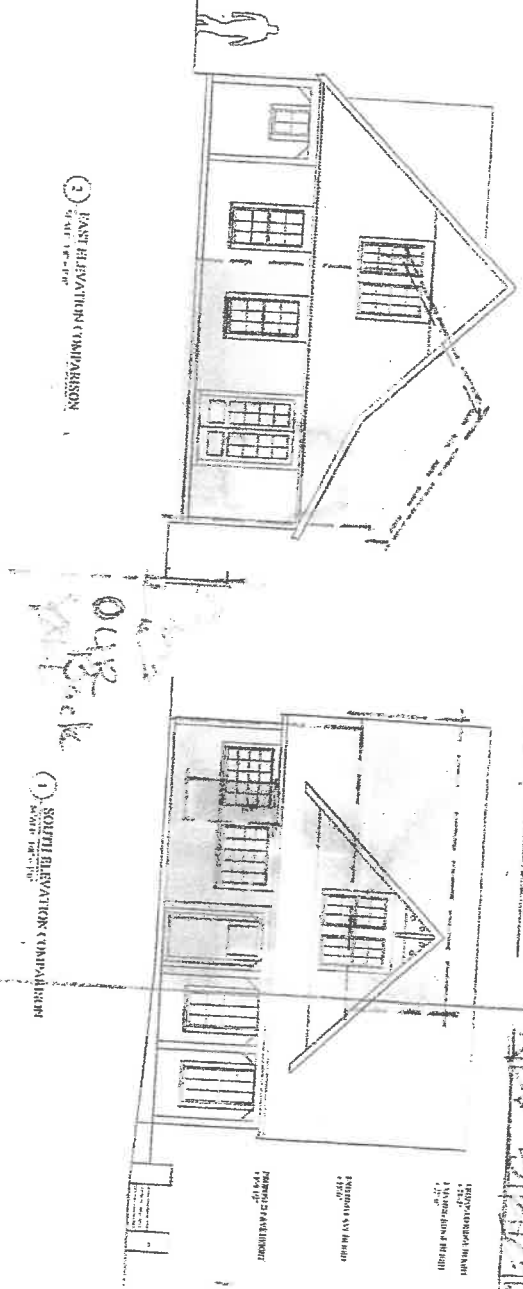
EXISTING ELEVATION  
WEST ELEVATION  
1/2" = 1'-0"

3 EAST ELEVATION COMPARISON

4 SOUTH ELEVATION COMPARISON

Existing  
Elevations

Proposed  
New Elevations



FRANK SHIRLEY  
ARCHITECTS

400 East  
Columbia  
Denver, CO 80202  
303.733.1111

Proposed Elevation

The  
CARLSON  
RESIDENCE

3100 East  
Lawrence Avenue

**NOT FOR CONSTRUCTION**

THIS DOCUMENT IS NOT TO BE USED FOR CONSTRUCTION

Proposed and Existing  
Elevations Comparison

1/2" = 1'-0"

March 12, 2010

SD-6

FRANK SHIRLEY  
ARCHITECTS

Jamestown Planning Commission  
Jamestown Town Hall  
93 Narragansett Ave.  
Jamestown, RI 02835

RE: September 16 hearing for 20 Brook St, Jamestown, RI

Dear Members of the Planning Commission:

The primary purpose of the proposed cottage for Ms. Carlson is to provide for the ability for her to age in place. This necessitated certain accommodations be made so that the cottage is accessible for wheelchair and walker use. I have summarized below the steps that we took to ensure that the cottage would be easily usable by Ms. Carlson into the future.

1. Single Level Living. We have located all functions necessary for daily use by Ms. Carlson on the first floor. This will allow her to navigate to all parts of the cottage she needs, including the kitchen, living area, bathroom, laundry area, and bedroom, without the need to go up and down stairs.
2. Oversized Interior Doors. All doors are oversized so that they are easily navigable with a walker or wheelchair, should one ever be necessary. Additionally, the small vestibule between the bedroom, bathroom, and laundry closet is oversized for the same purpose.
3. Accessible Bathroom. The bathroom is designed to be oversized so that a wheelchair can navigate comfortably through it and use each fixture. The shower is designed to accommodate a wheelchair with a wide, curb-less entry and extra space for maneuvering.
4. Accessible Kitchen. The kitchen layout is designed to make moving between appliances easy in a walker or wheelchair, and to eliminate unnecessary turn-arounds. Extra space is included to improve wheelchair maneuverability.
5. Floor Level. The main floor level was placed as close to grade as good building practices will allow. This was done so that, should a ramp for wheelchair accessibility become necessary in the future, it will be a simple task to add one.

All of these steps were taken so that Ms. Carlson can comfortably age in place. Her desire to age in a home of her own and to remain close to her family has been the primary driver as we have worked to create a thoughtful, beautiful, and functional cottage.

Respectfully,

Frank Shirley, AIA



April 16, 2020

For: Laura Carlson  
20 Brook Street  
Jamestown, RI 02835

To Whom This May Concern,

Largest Forestry has maintained this ancient and valuable Japanese Flowering Cherry tree, *Prunus serrulata* 'Kanzan,' located in the backyard of 20 Brook Street in Jamestown, Rhode Island, for over 20 years. This is one of the great trees of Jamestown.

It is critical that this tree is protected during the upcoming construction project, especially its root system, which is vulnerable to incursions. It is therefore at risk if the proposed cottage and related excavation and construction intrudes too closely to its root system. With anticipated over-excavation for the foundation, and sufficient distance for heavy equipment to pass without driving over the root system, we recommend that the cottage be located no less than 15' from the tree's canopy. If the new building's footprint aligns with the pre-existing structure on the north and west sides, and the footprint extends to the markings currently laid out to reflect the drawings submitted to the Town, that spacing should adequately protect this important specimen tree. In my view the new building should not be moved any closer to the tree.

Jamestown is a Tree City USA and highly regards its forest canopy. I want to thank the town and ask them for their cooperation in preservation of this tree.

Matthew "Twig" Largess  
ISA Certified Arborist NE 0802 / RI Arborist 200  
HMI Tree Consultant  
Voice of the Forest Alliance

Largest Forestry Inc. 201 Brook Street, Jamestown, RI 02835  
Phone: (401) 528-1710  
www.largestforestry.com largestforestry@gmail.com

## SUPPORTING MEMORANDUM

To: Jamestown Zoning Board of Review

Re: Application for 20 Brook Street replacement structure

The Carlson family seeks to replace a decaying, nonconforming accessory building with an improved structure with modern accessible facilities to enable their 80-year old mother, Jamie Rae Carlson, to age in place. Ms. Carlson was a long-time resident of Jamestown's North End in the 80's and 90's as well as a writer for the Jamestown Press. She returned to Jamestown in 2019 after selling her home in Newport and is currently living in her daughter's home – which is the primary residence at 20 Brook Street. Unfortunately, the many stairways, including front and back entrance steps, and inappropriate bathroom accommodations of the primary structure make it unsuitable for an older person with Jamie's joint and medical issues. The replacement structure has been designed to meet the accessibility requirements of a person with limited mobility or physical handicaps. (See Letter of Frank Shirley, AIA, Architect).

The Zoning Board referred this matter to the Planning Commission for an advisory opinion. After extensive exploration, site visits by the Town Planner and several commissioners, a 2.5 hour public meeting of the Technical Review Committee, and thorough consideration at two separate public hearings, the Planning Commission **unanimously recommended** approval of this application subject to certain reasonable modifications. Applicants agreed to accept all of those modifications and have amended this application to reflect the views and suggestions expressed in the Planning Board's written opinion including:

- Moving the proposed structure to a 15' rear setback;
- Agreeing to plant appropriate 10' evergreen trees along the northern property line to provide a buffer and privacy for the Whitakers;
- Forgoing the right to subdivide the property until such time as the second dwelling unit is eliminated in the future;
- Agreeing to forego short term rentals of less than 60 days.

### Context

The subject property enjoys a January 1989 Regulatory Variance granted by this Board to the prior owners "to permit conversion of the existing carriage house/nursery school to a one bedroom dwelling unit." The same 1989 Variance also granted significant relief from setback requirements allowing the building to be used as a dwelling notwithstanding that it was located on a 4' rear setback (where 30' required) and a 5'6" side setback (where 7' required). The Board made such relief expressly contingent on the former owners' continuing willingness to refrain from subdividing the oversized 22,000 sq ft lot on Brook Street.<sup>1</sup> (See Regulatory Variance.) The existing nonconforming structure is 2 full stories high with a protruding second story deck.

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<sup>1</sup> Lot 281 is contiguous with the jointly owned 8000 sq ft lot (Lot 823) which is subject to a conservation easement, making the potential consolidated size of property 30,000 sq ft and thus highly amenable to subdivision.

It was used as a rental unit without trouble or complaint for 30 years preceding the applicants' purchase of the property in June 2019.

The 1989 Zoning Board of Review found as fact that "use of the carriage house for an apartment is an appropriate use in the neighborhood and will assist in the preservation of the Victorian property" and farther found that "retention of the outbuilding [as a dwelling] is preferable to subdivision."

**The proposed replacement structure fully conforms with the dimensional requirements for an accessory building in Sec 82-311 (900 sq ft max footprint) as well as the 10' rear and 7' side setback requirements for outbuildings in R-8 in Sec. 82-302, Table 3-2.** Per recommendation of the Planning Commission, the 10' rear setback has been increased to 15'.

Compliance with those setbacks substantially reduces or eliminates the nonconformity of the existing structure. In addition, the existing nonconforming structure has a 2-story high North wall and a deck that overlooks the neighboring property. By contrast, plans for the replacement structure include substantial features designed to reduce the visual intrusiveness of the structure toward neighboring properties including:

- Lower rear profile facing North, one-story on the setback line,
- carve out on the northwest corner,
- "broken back" north-facing roof, with a low pitch at the lower portion to reduce its visibility,

All of the abutting properties to the North have outbuildings that fail to conform to setback requirements. Moving the proposed structure to comply with accessory building setback requirements will significantly alleviate the existing crowding of outbuildings in that area.<sup>2</sup>

The substance of the relief requested is to carry over the *existing special use permit* from the existing nonconforming building to the proposed replacement structure – which will permit the applicants to continue using the replacement building as a dwelling unit, just as the existing building has been used for 30 years. No new status for this property is requested and thus no new precedent or legal entitlement would be established by granting this relief.

Because the Building Inspector has determined that the proposed structure is a "second principal building" on the lot, the applicants respectfully request that the proposed structure be granted a variance under Sec 82-302, Table 3-2, to allow a 15' setback versus the required 30'.<sup>3</sup>

---

<sup>2</sup> The abutting Maccini property (Lot 277), Whitaker property (Lot 521), and Fine property (Lot 520) along Friendship Street all have significant permanent accessory structures that lie directly on or within 3' of the Western and Northern borders of the Carlson's lot.

<sup>3</sup> The side setback requirement of 7' is the same for accessory and principal buildings in R-8; thus no relief from the side setback is requested. Note that the West side of the property abuts a right-of-way owned by the Fine family on Friendship Street. The Fine's have expressed strong support for this proposed building project and have voiced no objection to the proposed siting of the replacement structure. As a result of this right-of-way there is no

The 1989 Zoning Board of Review permitted a second dwelling unit on the premises (with very substantial setback relief) in order to avoid the prospect of subdivision. The Board determined at that time that allowing a second dwelling unit in the subordinate position in the back corner of the lot was "preferable" to subdivision and the possibility of another full-size principal residence in place of what was and is still a beautiful sloping greensward toward the sea in the middle of Town. All of the same considerations remain in place today.

### **Accommodations**

**This application has been revised *sua sponte* in important respects:**

- Applicants are no longer asking for a variance to continue use of the existing setbacks for the carriage house which currently stands significantly closer to the rear (3.9') and side (4.8') boundaries; the replacement structure proposed in the revised application complies fully with the appropriately required 10' rear and 7' side setbacks for an accessory building.
- In deference to the Planning Commission the siting of the replacement structure has been moved to 15' from the northern boundary. Applicants have also committed to planting 10' evergreens to provide a privacy buffer.
- The size (footprint) of the proposed structure has been reduced from 970 sq ft to just under 900 sq ft in order to comply with the maximum size requirement for an accessory building. Compliance with this constraint creates challenges to incorporating interior first-floor accessibility requirements in the kitchen, bathroom, hallways, and passages, but applicants believed it was important to respect the maximum size requirements for an accessory building.

Applicants have retained a highly-regarded architect, Frank Shirley of Cambridge MA, to design the proposed structure. Mr. Shirley specializes in 1880's New England shingle-style cottages and has published widely on their attributes. He has created a beautiful replacement structure with a design that incorporates many features intended to make the new building less intrusive and more conforming to both legal requirements and the aesthetic standards of the neighborhood. He will be available at the hearing to speak directly to those important architectural accommodations.

### **Hardship – Additional considerations**

1. The existing nonconforming structure has a very small first floor that cannot reasonably accommodate 21<sup>st</sup> century living norms or the dimensions of an accessible bathroom and kitchen arrangement. The building has been neglected for many years; its ancient foundation and crawl space are infested with mold and mildew. The building has been evaluated by a structural engineer (Richard Pastore) and a well-known architect (Frank

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encroachment at all toward the Gillespie property farther to the West – which does not actually share a property line with the Carlson property.

Shirley) who specializes in 1880's New England cottages. Mr. Shirley found the carriage house not to be authentic to the 1880's era primary home, highly modified over the years with poor construction, and not worthy of salvaging or remodeling. As Mr. Pastore noted, "you might want to save the cupola, but that's about it." At the Planning Commission, Duncan Pendlebury commented that he had inspected the building when the property was for sale and determined that it would take a great deal of work and expense to renovate.

2. Jamie Carlson is currently living in a second-floor bedroom that is unsuitable to her age and medical condition. The many stairs, inaccessible bathrooms, and lack of privacy are a hardship for her. Moreover, she has deferred necessary surgeries on her knee and her foot until she has access to a single-story living space in which to recover. Due to the rampant spread of COVID-19 in nursing homes, she and her family feel the danger of recovery in a rehabilitation facility is unacceptable. The very long series of delays since the original filing of this application in March 2020 has resulted in Ms. Carlson living in pain and uncertainty for many months.
3. According to architect Frank Shirley, moving the proposed structure to the 30' rear setback line for principal buildings would place the cottage too close to the primary residential structure, crowding the lot, compromising the visual integrity of the site layout from Brook Street, and destroying the historical aesthetic composition of the property with its primary home and separately offset and clearly subordinate "carriage house" accessory structure.
4. The Carlsons considered adding on to the back of the primary residence or moving the replacement structure in line with the primary residence. However, an "ancient and valuable Japanese Flowering Cherry tree" sits on the property just West of the primary residence. This 40' tree is one of the many glories of the neighborhood when it flowers in the spring. Adding on to the house or shifting the proposed structure too close to this specimen tree would require the felling of this tree or endanger its survival during construction and afterwards. See letter from Largess Forestry recommending no excavation or heavy equipment within 15' of this tree's canopy to avoid harm to its root system.

### **Summary & Conclusion**

Laura and Don Carlson have both returned to live in Jamestown as year-round permanent residents in recent years. They plan to live here for the rest of their lives with their extended families. They own the property at 20 Brook Street jointly and seek this relief to build an appropriate and accessible home for their mother to enable her to age in place surrounded by loving family members across four generations. To that end they seek continuation of an existing special use permit allowing for a second dwelling on the lot.

The proposed structure substantially decreases the nonconformity of the existing structure and is fully compliant with the dimensional and setback requirements for an accessory building. The structure has been designed with sensitivity to reduce its intrusiveness toward the abutting



neighbors; allowing it to sit discretely in a garden at the rear corner of the property will also reduce its intrusiveness from Brook Street.

The property already enjoys a long-standing Regulatory Variance from this Board allowing for a second dwelling unit on the premises in the existing nonconforming structure and finding as fact that such an arrangement is "an appropriate use in the neighborhood," "assists in the preservation of the Victorian property," and is "preferable to (the alternative of) subdivision." There is no new precedent nor any new legal right established by the relief requested.

The 1989 Regulatory Variance was contingent upon the prior owners' agreement not to subdivide the 22,000 sq ft Lot 281 and its co-owned, contiguous 8,000 sq ft Lot 823. In fact the existing special use permit terminates automatically by its own terms if Lot 281 is ever subdivided. The Carlson family is willing to live by that same commitment to preserve the long open greensward running down toward the sea. They agree that any new special use permit should likewise be contingent on that commitment.

Parcel ID: 9-273  
SPENCER, DAVID R  
20 FRIENDSHIP STREET  
JAMESTOWN, RI 02835

Parcel ID: 9-274  
MOLINARI, FRANCIS MURPHY ET  
MOLINARI, LISA SMITH  
26 FRIENDSHIP STREET  
JAMESTOWN RI 02835

Parcel ID: 9-275  
STAHL, ERIC C.  
STAWICKI, IRENE P  
32 FRIENDSHIP STREET  
JAMESTOWN RI 02835

Parcel ID: 9-276  
LITTLE, PORTIA M. TRUSTEE  
33 FRIENDSHIP STREET  
JAMESTOWN RI 02835

Parcel ID: 9-277  
MACCINI, ROBERT J & KRISTEN S  
17 FRIENDSHIP STREET  
JAMESTOWN RI 02835

Parcel ID: 9-278  
CAMPBELL-KING, ABIGAIL TRUSTEE  
11 FRIENDSHIP ST  
JAMESTOWN RI 02835

Parcel ID: 9-279  
MOODY, S CLARKE III TRUSTEE &  
MODDY, ELIZABETH S TRUSTEE TIC  
1 HARBOUR HOUSE  
KEY LARGO FL 33037

Parcel ID: 9-281  
CARLSON, DONALD R ET  
CARLSON, LAURA J TIC  
20 BROOK STREET  
JAMESTOWN RI 02835

Parcel ID: 9-282  
HERNE, PETER ET  
GILLESPIE, ANN (LE)  
11495 BEACON POINTE LANE  
WELLINGTON FL 33414

Parcel ID: 9-283  
POLLOCK, WILSON R, TRUSTEE  
33 BROOK STREET  
JAMESTOWN RI 02835

Parcel ID: 9-288  
DACQUINO, MARY FRANCIS ET  
DACQUINO, DAVID JOSEPH  
2 WALCOTT AVENUE  
PO BOX 597  
JAMESTOWN RI 02835

Parcel ID: 9-520  
FINE, CHERYL T  
1 BROOKSIDE BOULEVARD  
W. HARTFORD, CT 06107

Parcel ID: 9-521  
WHITAKER, MELVIN A. ET UX  
WHITAKER, BARBARA A TE  
23 FRIENDSHIP STREET  
JAMESTOWN RI 02835

Parcel ID: 9-632  
DOUVILLE, SHERRY J., TRUSTEE  
29 EAGLEBROOK DRIVE  
SOMERS CT 06971

Parcel ID: 9-650  
MCBRIDE ROBERT O & KINNE G  
55 MAIN STREET UNIT 2  
SOUTHBOROUGH MA 01772

Parcel ID: 9-691  
WADSWORTH, WALTER E TRUSTEE  
1111 LITTLE HARBOR DRIVE  
DEERFIELD BEACH FL 33441

Parcel ID: 9-692  
HORNE-BUCHANAN TRUST  
BUCHANAN ELAINE M TRUSTEE  
12 FRIENDSHIP ST  
JAMESTOWN RI 02835

Parcel ID: 9-742-4  
WILKIE, SUSAN R  
3 CONANICUS AVENUE UNIT 4  
JAMESTOWN RI 02835

Parcel ID: 9-742-1  
BECKMAN, JUDY K  
13 CONANICUS AVENUE, UNIT 1  
JAMESTOWN RI 02835

Parcel ID: 9-742-3  
HOLMES, ROBERT J ET  
HOLMES, JEAN D  
3 CONANICUS AVE  
JAMESTOWN RI 02835

Parcel ID: 9-742-2  
STONE, DOUGLAS DWIGHT  
3 CONANICUS AVENUE, UNIT 1  
JAMESTOWN RI 02835

Parcel ID: 9-742

Parcel ID: 9-778  
BENDICK, ROBERT L JR & JILL R  
1211 OXFORD ROAD  
WINTER PARK FL 32789-6966

Parcel ID: 9-781  
SKUDERA, WAYNE & REGINA  
59 GREEN LANE  
JAMESTOWN RI 02835

Parcel ID: 9-783  
BRAK, JOSEPHINE & PHILIPPE  
27 BROOK STREET  
JAMESTOWN RI 02835

Parcel ID: 9-784  
CROMPTON, ALFRED W ET  
CROMPTON, ANN H  
221 MT. AUBURN ST  
CAMBRIDGE MA 02138

Parcel ID: 9-788  
UNDER THE SUN LLC  
26 PARDON TUCKER PLACE  
JAMESTOWN RI 02835

Parcel ID: 9-789  
SLEEPING VILLAGE LLC  
26 PARDON TUCKER PLACE  
JAMESTOWN RI 02835

Parcel ID: 9-790  
LIBERATI, MARK E ET UX  
MARY ANN  
2 OLD WALCOTT AVENUE  
JAMESTOWN, RI 02835

Parcel ID: 9-823  
CARLSON, DONALD R ET  
CARLSON, LAURA J TIC  
20 BROOK STREET  
JAMESTOWN RI 02835

$27 \times 6.80 = 183.60 + 200 =$

TOTAL 383.60



## PLANNING COMMISSION MEMORANDUM

**TO:** Zoning Board of Review  
**FROM:** Michael Swistak, Chair and  
The Jamestown Planning Commission  
**RE:** 20 Brook Street  
**DATE:** September 21, 2020

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At the direction of the Zoning Board of Review on August 25, 2020, the Planning Commission met on September 2 and September 16 to review the referenced application (see attached minutes). This application was sent to the TRC on August 31 (minutes attached). The Zoning Board of Review asked that an advisory opinion be rendered on this application per Zoning Ordinance Article 11 – Jamestown Village Special Development District. The application dated July 24 gives the following facts on the application:

- 1) R-8 Zoning District;
- 2) The Lot is 22,000 square feet (where 8,000 are required per lot, for a single-family home);
- 3) The existing conditions on site include a main house and an accessory, or secondary dwelling unit;
- 4) The existing secondary dwelling unit (on one lot) was granted permission to be such by a variance granted in January 1989. Relief was granted for side and rear setbacks at that time as well. That approval was conditioned that if the property is subdivided then the variance shall terminate;
- 5) The Zoning Officer, Chris Costa has made the determination that this proposal is two dwellings on one lot per 82-303 and not a house plus an accessory structure per 82-311 and therefore both structures should meet the setbacks for a primary structure. Dimensional relief will be required for setbacks as proposed. The requested relief from Section 303 (limits one house per lot) is appropriately requested;
- 6) The application requests a new, 900 square ft, structurally and aesthetically improved, second, accessory dwelling unit to replace the existing 400 square ft dwelling that meets the setbacks of an accessory structure;
- 7) The relief is requested to appropriately house an elderly mother in the near term which includes making the living quarters “accessible”.

In reviewing the application with respect to Zoning Ordinance Article 11, we offer the following: Article 11 is specific about its applicability in Section 82-1101. R-8 is within the Jamestown Village Special Development District. Section 82-1101 I. states that development within the R-20 and R-8 Zoning Districts shall be reviewed by the Building Official during the building permit process to determine compliance with the development standards in Article 11. It continues to say that all applications for development, redevelopment, or expansion shall be filed with the Town Planner and shall be reviewed per section 82-411 except as noted in 1106-B and 1106 C.2.

Section 82-1105 states that “Existing buildings and appurtenances that do not conform to the provisions of this section may continue in use and form as they are until a Substantial Modification is requested, at which time the TRC shall determine the provisions of this section that apply.” Both the TRC and the Building Official have determined that Article 11 is not applicable to this application.

Section 82-1109 states that in the R-8 district, “Buildings in each Zone shall conform to the uses of Table 3-1. Uses that do not conform shall require approval by Special Use Permit or Variance in conformance with Article 6 herein.”

Section 82-411 Technical Review Committee

C. Advisory Review (to PC) does not apply to this application because it does not meet any of the following criteria:

- Any application or action requiring a public hearing before the Planning Commission;
- Major Subdivision or Land Development Project;
- Minor Subdivisions or Land Development Project;
- Zone Change recommendations to the Town Council;
- Pre-application review of Major Subdivisions
- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting the definition of a Substantial Modification in the CL, CD, CW and P and including one or more of the following criteria:
  - 1) Is valued at more than 50% of the replacement cost of the entire building;
  - 2) New construction other than single family;
  - 3) Fifty percent or greater alteration of a building exterior
  - 4) Fifty percent or greater alteration of street façade;
  - 5) New use; or
  - 6) Expansion of use which requires more than 15 parking spaces.

Section 82-411 D. TRC Administrative Review does not apply to this application because it does not meet any of the following criteria:

- Pre-application review of Minor Subdivisions (if requested)
- Setting, reducing or releasing performance bonds
- Requests for reinstatement or extension of applications as required by Regulation
- Recommendations to the Town Council on matters other than zoning amendments as requested.
- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting one or more of the following criteria in the CL, CD, CW and P.
  - 1) the development of new single-family dwellings;
  - 2) a change in parking layout or the addition of up to 15 parking spaces; or
  - 3) a change in site design or lot coverage that changes the on-site drainage patterns and how stormwater may impact abutting or nearby properties.

**Therefore, the Planning Commission reviewed this application per 82-501 A.5. which states that the Zoning Board of Review has the power to “refer matters to the planning commission, or to other boards or agencies of the town as the zoning board may deem appropriate, for findings and recommendations”.**

**Findings:**

- 1) According to the building footprint plan and testimony submitted by the applicant, there is a lot of non-conforming accessory structures in the neighborhood and the village as shown on the referenced plan highlighting accessory structures;
- 2) Having a subservient structure towards the rear of the lot is typified in the Jamestown Village Design Guidelines and required in the Zoning Ordinance Table 3-2 that outbuildings/accessory structures be setback 20’ minimum plus the building setback. The applicant submitted a document detailing the projects compliance with the Jamestown Village Design Guidelines with visual graphics of the proposed cottage comparing exterior details by photograph of the main house;
- 3) The following relief is necessary for this application:
  - a. Section 303 (1 dwelling unit per lot) – the previously granted relief (variance) in 1989 will go away once the existing accessory structure is removed;
  - b. Dimensional variance for setbacks;
- 4) The placement of the replacement accessory dwelling unit more appropriately sits towards the back of the lot and not in line with the existing historic house, where the required 30-foot setback would place it;
- 5) Moving the replacement accessory dwelling unit towards the front of the lot would block the view of the neighbors to the west and disrupt the historic rhythm of the neighborhood;
- 6) There were 6 abutters on the Zoom call on September 2, 2020;
- 7) This property is subdividable into two lots and that by-right option seems less favorable to the character of the neighborhood than replacing the existing structure. Subdividing would remove the historic greenspace to the east of this lot and place another large structure in the neighborhood;
- 8) The applicants are willing to relinquish their right to subdivide if granted relief for their request;
- 9) An old, large cherry tree exists in the yard that would be disrupted if the setbacks for a primary structure were adhered to;
- 10) The new building is a significant improvement architecturally and aesthetically over existing structure. Design is consistent with the style and historical character of the main house and the neighborhood;
- 11) As proposed, the siting of the proposed structure 10 feet from the rear property line reduces the existing nonconformity of the rear lot line by 4 ft. over the existing situation;
- 12) The applicant argued that the proposed structure, if considered an accessory structure, eliminates all nonconformity and is fully compliant with size and setback requirements when considered as an accessory structure. The proposed siting in the rear corner of the lot minimizes any water view obstruction with respect to the replacement structure and is consistent with the Village Design Guidelines as well as the historical pattern of the neighborhood;

- 13) Applicants have retained an architect with significant expertise in shingle style and Victorian houses from the late 19th century, appropriate for this project;
- 14) The applicant noted that moving the structure closer to the street would negatively affect the historic balance of the structures on the lot, and would be inconsistent with the Village Design Guidelines. The applicant also noted that, from his conversations with the neighbors, this option would also be objectionable to neighbors on Brook Street;
- 15) Both the Planning Commission and the applicant agreed that the Accessory Family Dwelling Unit (AFDU) option is an alternative that serves many needs of the applicants. The TRC and Planning Commission encouraged the applicant to consider this option and would look favorably on an AFDU application based on current design and siting;
- 16) Per Planning's understanding an AFDU would require a special use permit per section 82-1402(H) since the structure does not meet the setbacks of the primary structure in lieu of a dimensional variance since the proposed structure complies with all accessory structure requirements; per section 82-1402(H);
- 17) The buffer of trees between the applicants house and the accessory dwelling and the house to the north had been accidentally removed by the applicants landscaper;
- 18) The large open green space created by this lot and the adjacent lot owned by the Carlson's is a significant enhancement to the neighborhood and should be preserved if at all possible; and,
- 19) The Planning Commission discussed the following scenarios at the September 2 and 16 Planning Commission meetings:
  - a. Existing building is renovated;
  - b. The existing building is demolished and rebuilt with the approximate same dimensions but with greater setback from the rear;
  - c. The existing building is demolished and a new, bigger (accessory style) building is built with greater setbacks;
  - d. The construction of the proposed (accessory style) building is built and used as an "Accessory Family Dwelling Unit" per Zoning Ordinance Article 14;
  - e. The property is subdivided and a new house built on a lot to the east of the existing house;

**Recommendations:**

Several findings were important to the Planning Commission when deliberating a recommendation:

- 1) The existing building is unable to be reasonably renovated;
- 2) The applicant currently has the right to the existing rentable accessory dwelling unit as long as they forego the right to subdivide;
- 3) The property is subdividable and the owners were willing to forego that right to get the new proposed accessory dwelling unit;
- 4) The applicants, and the neighbors to the north and west seemed amenable to moving the proposed structure 15 feet from the rear property line instead of the proposed 10, with the addition of mature plantings along the fence of the applicant's northern property line;
- 5) Although determined to be a second dwelling unit on the lot, the proposed "ancillary" or "accessory" structure is architecturally harmonious with the main structure and designed in a way as to not compete in scale or volume with the primary building mass; and,

- 6) The owners are not interested in short term rental, which could be disruptive to the neighborhood.

The Planning Commission hereby recommends the Zoning Board approve the proposed application with the following conditions:

- 1) The proposed structure is 15 feet from the rear property line;
- 2) Mature (10+foot) evergreen trees are planted along the northern property line to provide a buffer and provide privacy for the Whitaker property (plat 9 Lot 521, 23 Friendship Street);
- 3) The right to subdivide is removed until such a time that the second dwelling unit is eliminated in the future. At that time, the building official and Town Planner must approve a reintegration plan for removing the second dwelling unit. At that time it shall be made into living space, gym, storage or the like which will include at a minimum, removal of the kitchen sink, range and power for such; and,
- 4) Zoning Board should prohibit any short-term rental (less than 60 days) of the proposed dwelling as part of any approved relief.

Attached: TRC Minutes dated 8/31/20  
Planning Commission Minutes dated 9/2/20

C: Chris Costa, Building and Zoning Official



## Technical Review Committee MEMORANDUM

**TO:** Planning Commission  
**FROM:** Technical Review Committee – Members present - Lisa Bryer,  
Town Planner, Chris Costa, Building Official, Michael Swistak,  
Planning Chair, Rosemary Enright, Planning Secretary  
**RE:** 20 Brook Street  
**DATE:** September 1, 2020

---

The Technical Review Committee (TRC) met on August 31 to review the referenced application (see attached minutes). This application was sent to the TRC and Planning Commission from the Zoning Board of Review where they asked for an advisory opinion on this application and that this to be reviewed per Zoning Ordinance Article 11 – Jamestown Village Special Development District. The application dated July 24 gives the following facts on the application:

- 1) R-8 Zoning District;
- 2) The Lot is 22,000 square feet (where 8,000 are required per lot, for a single-family home);
- 3) The existing conditions on site include a main house and an ancillary, or secondary dwelling unit;
- 4) The existing secondary dwelling unit (on one lot) was granted permission to be such by a variance granted in January 1989. Relief was granted for side and rear setbacks at that time as well. That approval was conditioned that if the property is subdivided then the variance shall terminate;
- 5) The Zoning Officer, Chris Costa has made the determination that this proposal is two dwellings on one lot per 82-303 and not a house plus an accessory building per 82-311 and therefore both structures should meet the setbacks for a primary structure. Dimensional relief will be required for setbacks as proposed. The requested relief from Section 303 (limits one house per lot) is appropriately requested;
- 6) The application requests a new, 900 square ft, structurally and aesthetically improved, second dwelling unit to replace the existing 400 square ft dwelling that meets the setbacks of an accessory structure;
- 7) The relief is requested to appropriately house an elderly mother in the near term which includes making the living quarters “accessible”.

In reviewing the application with respect to Zoning Ordinance Article 11, we offer the following: Article 11 is specific about its applicability (Section 82-1101). R-8 is within the Jamestown Village Special Development District. Section 82-1101 I. states that development within the R-20 and R-8 Zoning Districts shall be reviewed by the Building Official during the building permit process to determine compliance with the development standards in Article 11. It continues to say that all applications for development, redevelopment, or expansion shall be filed with the Town Planner and shall be reviewed per section 82-411 except as noted in 1106-B and 1106 C.2. Section 82-411 C. Advisory Review (to PC) does not apply to this application because it does not meet any of the following criteria:

- Any application or action requiring a public hearing before the Planning Commission;
- Major Subdivision or Land Development Project;



- Minor Subdivisions or Land Development Project;
- Zone Change recommendations to the Town Council;
- Pre-application review of Major Subdivisions
- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting the definition of a Substantial Modification in the CL, CD, CW and P and including one or more of the following criteria:
  - 1) Is valued at more than 50% of the replacement cost of the entire building;
  - 2) New construction other than single family;
  - 3) Fifty percent or greater alteration of a building exterior
  - 4) Fifty percent or greater alteration of street façade;
  - 5) New use; or
  - 6) Expansion of use which requires more than 15 parking spaces.

Section 82-411 D. TRC Administrative Review does not apply to this application because it does not meet any of the following criteria:

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- Development Plan Review under Article 11 of the Zoning Ordinance for applications meeting one or more of the following criteria in the CL, CD, CW and P.
  - 1) the development of new single-family dwellings;
  - 2) a change in parking layout or the addition of up to 15 parking spaces; or
  - 3) a change in site design or lot coverage that changes the on-site drainage patterns and how stormwater may impact abutting or nearby properties.

The following findings of fact were noted at the meeting:

- 1) There is a lot of non-conforming structures in the neighborhood and the village. Having a subservient structure towards the rear of the lot is typified in the Jamestown Village Design Guidelines and suggested in the Zoning Ordinance Table 3-2 that outbuildings/accessory structures be setback 20' minimum plus the building setback.
- 2) The following relief is necessary for this application:
  - a. Section 303 (1 dwelling unit per lot) – previously granted by variance in 1989
  - b. Dimensional variance for setbacks
- 3) The placement of the replacement dwelling unit more appropriately sits towards the back of the lot and not in line with the existing historic house, where the required 30 foot setback would put it;
- 4) Moving the replacement dwelling unit towards the front of the lot would block the view of the neighbors to the west and disrupt the historic rhythm of the neighborhood;
- 5) There were 6 abutters on the Zoom call;
- 6) This property is subdividable into two lots and that by-right option seems less favorable to the character of the neighborhood than replacing the existing structure. Subdividing would remove the historic greenspace to the east of this lot and place another large structure in the neighborhood;

Planning Commission Minutes

September 2, 2020

Page 11

- 7) The applicants are willing to forego their right to subdivide if granted relief for their request;
- 8) An old, large cherry tree exists in the yard that would be disrupted if the setbacks for a primary structure were adhered to; and,
- 9) The TRC discussed the option of utilizing the Accessory Family Dwelling Unit section of the Zoning Ordinance in lieu of the current proposal.

Recommendation:

The Planning Commission should discuss providing an advisory recommendation to the Zoning Board.



**TOWN OF JAMESTOWN**  
P.O. Box 377  
93 Narragansett Ave.  
JAMESTOWN, RHODE ISLAND 02835

Planning Office - 421-7210  
Fax - 421-7226

Approved As Amended  
**PLANNING COMMISSION MINUTES**  
September 2, 2020  
7:00 PM

**PURSUANT TO EXECUTIVE ORDER NO. 20-46 EXECUTED BY GOVERNOR GINA  
RAIMONDO ON MARCH 16, 2020  
THIS MEETING WAS TELECONFERENCED VIA ZOOM:**

**I. Call to Order and Roll Call**

The meeting was called to order Via Zoom at 7:03 p.m. and the following members were present:

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

Also present:

Lisa Bryer, AICP – Town Planner  
Wyatt Brochu – Town Solicitor  
Cynthia L Reppe – Planning Assistant  
Deb Foppert – Attorney  
Don Carlson – Applicant  
Laura Carlson – Applicant  
Frank Shirley – Architect  
Jonathan Miller – Architect  
Kristen Maccini – Attorney  
Mel and Barbara Whitaker - Abutter  
Peter Herne – Abutter  
Abby Campbell King – Architect

**II. Approval of Minutes August 19, 2020**

A motion was made by Commissioner Smith and seconded by Commissioner Cochran to accept the minutes as written. So unanimously voted by a show of hands.

**Approval of Minutes August 24, 2020**

A motion was made by Commissioner Smith and seconded by Commissioner Cochran to accept the minutes as written. So unanimously voted by a show of hands.

**III. Correspondence – nothing at this time**

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

#### V. Reports

1. Town Planner's Report – The Town Council accepted the memo from the Planning Commission regarding the Zoning Ordinance Amendment related to building height in the special flood hazard area. The hearing was continued to September 21<sup>st</sup>.

#### VI. New Business

1. **20 Brook St. –Jamestown RI - Plat 9 Lot 281, owner/applicant Donald R. Carlson and Laura J. Carlson - Application for (Alteration of a 1989) Variance/Special Use Permit to allow an existing second dwelling unit on the lot to be replaced. Forwarded by the Zoning Board to the Planning Commission for Development Plan Review/Advisory Opinion; review, discussion and/or action and/or vote**

Town Planner Lisa Bryer said the application was heard by the zoning board on August 25 and they asked for an opinion from the planning commission. It is important to review her memo (attached) to see why we are reviewing this at planning. It is her opinion and Christ Costa agrees that this is just an advisory opinion since this application does not meet the standards for review in Article 11 therefore it does not apply here. The Zoning Board always has the right to ask for an advisory opinion and so that is what we will do in this instance. They also asked for TRC review and that occurred on Monday August 31 at 3pm and the Minutes and Memo from the TRC were distributed yesterday. At the TRC we started listing Findings of Fact, and we will hear from the applicant and abutters and there may be more Findings of Fact added.

Commissioner Swistak said our mission is to render an opinion and whatever result we have at the end of the evening is not binding it is advisory, not appealable just advisory.

Deb Foppert Attorney for the Carlson's, said a variance was granted by the Zoning Board in 1989 that converted this structure from a nursery school to an apartment under Article 331 at that time. A dimensional variance for setbacks and the use was granted at that time. It was determined then that it is an appropriate use. The motion carried unanimously. It has been a rental for over 30 years to non-family members.

Laura Carlson will be living there with their mother Jamie Carlson. Mold and age and general deterioration of the building is why they are tearing it down. They are making it fully "accessible" on one level and the top ½ story is a bedroom for a possible caregiver.

The Applicant went to the zoning board in March but due to timing and Covid this was postponed. Ms. Foppert explained the setbacks needed and the new application. Change must be sought under 303 – Number of residential structures per lot, similar to in 1989. Despite it appearing as an accessory structure, the applicant must comply. The property is located on a 22,000 sq. ft lot and they also own an additional adjacent 8000 sq. ft lot that is protected by conservation easement. Attorney Foppert noted the same hardship, just like in 1989, still applies. She introduced Architect Frank Shirley, a specialist in 1880s architecture.

Frank Shirley introduced his colleague and associate Jonathan Miller who is very familiar with zoning. Shirley noted that they were brought in by the Carlsons and tasked with creating a small cottage on their behalf. They looked at the existing dwelling and it is in disrepair and it has lost every element that was previously considered historical.

The goal and the plan they came up with will be providing Ms. Jamie Carlson with the ability to age in place. The directive of the Carlson's to have it a less imposing character to the north abutters, the Whitakers. The interior is designed for elderly accessibility. It was designed so that the architecture is matching the current home on the property. They have moved 6 feet farther away from Whitakers property and a 2 story structure will be eliminated too and replaced by a 1.5 story structure. They removed the deck which had a nice water view but were trying to eliminate the intrusion to the Whitakers on the North side.

In March the intention was going to be exactly on the same footprint and renovate but when they received reports from 2 structural engineers who said it is not viable, they decided to tear it down and make a beautiful structure and marry it well with the matriarch (bigger house). The existing footprint violates the setbacks so they went by the accessory structure setbacks since the new accessory structure is subordinate to the main structure. They put it within the accessory setbacks and it is 900 sq. ft. footprint which meets the requirements for an accessory structure in Zoning. It is fully compliant with the zoning of an accessory structure now. The other option they have is subdividing. They did not want to give up the green space on the existing lot which he feels is a gift to the neighborhood; they do not want to destroy that. If they subdivide they can put a big 4 bedroom house if they wanted.

The former owners, the O'Sullivan family made a deal as long as they have it as a dwelling unit they cannot subdivide. A major concession to the town was to not subdivide. They are willing to make the same concession. It can meet the setbacks as accessory and serves the same purpose as was in 1989. When their Mom cannot live alone Laura will probably move into it and her kids will move into the big house.

Kristen Maccini asked if the redesigned configuration will create a more conforming building than what is in place now. Can someone explain how a 441 sq ft building is not significantly less than the 900 sq ft proposed? How is it more conforming? Attorney Foppert responded that if it were not a dwelling it would be a conforming accessory building that sits on the appropriate setbacks and if not used as a dwelling in that sense it is more conforming and the way Frank designed it, it is a less intrusive façade to the north.

Commissioner Swistak told Ms. Maccini this is not the time for you to be interviewing the applicants. We are going to keep to our regular protocol.

Commissioner Swistak asked Ms. Foppert if she wants to follow up on the question. It is less nonconforming to what exists there now, Ms. Foppert said.

Don Carlson said neighbors want it 30 feet away from the rear property line and Frank Shirley looked to see if it could be done. His response was it destroys the balance of the property and the neighborhood by doing that. Typically, carriage houses and accessory structures are tucked into the rear portion of the lot and doing so meets Jamestown's Design guidelines. The Whitakers house is 15 feet from the rear lot line and does not conform to zoning. That is not Carlson's fault and they are trying to make it better by the proposed plan.

Frank Shirley said the siting of the building 6.2 feet further off property line and 2.11 farther east and that is why it is less non-conforming. In terms of the siting of the building they did look at

other locations and as the building moves towards Brook Street it overlaps the main house where it extends to the west. The 2 buildings would align and be about 11 feet between them where the existing porch and deck are. This is not what the design guidelines speak to. Siting the small building unusually close to the main building would be out of character. They discussed the neighborhood map where all the accessory structures towards the rear are shown.

Commissioner Pendlebury said as he understands it in 1989 the variance was allowed for this to be sited as an accessory structure. Leave it where it was which was non-conforming and allow it to be used as a 1 bedroom separate residence. We are now being asked to allow it to be sited as an accessory structure and now 2 bedrooms. Chris Costa determined at the TRC that it is a second primary structure not accessory.

Commissioner Cochran brought up Accessory Family Dwelling units and asked if that served their needs. At this point they would prefer to proceed as applied, Foppert said.

Commissioner Pendlebury said the 1100 sq. ft of living space is equal to or exceeds some houses in the shores, this is very complex and seems to be quite large. Has anyone thought about making it less large and allow it to fit perhaps better? Pendlebury said he walked through it when it was for sale and the condition of the 2<sup>nd</sup> structure is very poor and it needs too much work. This complicates things for everyone because it is in such poor condition.

Frank Shirley noted that the 900 square foot footprint includes the porch. The Porch is 90-95 sq ft. so it is around 800 sq ft. Mr. Shirley said there are many outbuildings that are larger than this. 9 Conancius has an accessory building that is 1028 sq.ft. with a 2 br 1 bath on a smaller lot, 64 green lane 1438sq. ft. on a lot of 16000 plus. These are all second structures. Pendlebury said he appreciates all the information. He does not disagree that the building is easily a candidate for replacement.

Ms. Foppert said she is responding to the statement about larger sq. ft on first floor is because of stair climbing. Laura Carlson said when you make a building fully accessible it increases the square footage for ADA requirements, the doorways have to be bigger. It is designed with ADA guidelines in mind. It is oversized to allow for walker or wheelchair.

Commissioner Cochran asked was there any talk of compromising and making maybe a 15-20 ft setback? More in conformance and not so intrusive. Mr. Carlson said the 20 ft brings it closer to Brook and they reached out and wanted an in person talk with the abutters and they were not interested and also Jeff Katz tried. The response was answered with 30 feet or nothing. TRC asked the applicant to confirm that if they receive this variance they will not subdivide. They agreed.

Pendlebury asked and if they do the AFDU that will still keep the right to subdivide.

Ms. Bryer noted yes. Bryer asked if anyone had anything else to add, she has a comprehensive Findings of Fact started.

Commissioner Enright asked what are the setbacks for an AFDU? If it is detached then it requires a special use permit if it does not meet the setbacks for the primary structure. In that instance we

would be looking at the SUP standards of compatibility etc. The process would be it starts at TRC then go to zoning for SUP. It would not come to the Planning Commission in that instance.

Mr. Herne an abutter said from his point of view if they move building from where it is now further towards the street it will block his view to the ocean. He sits west of building, he likes it further to the rear. If Mr. Carlson is going to build the smaller the better. That is his comment.

Kristen Maccini thinks the existing situation with the Whitaker's is for 50 years they have lived with this without trouble or complaint and largely due to the Whitaker's always helping neighbors. They have a very close building and it looks quite imposing but the prospect of a 900 sq. ft building with respect to blockage of light space etc. To confirm their interest they have a position of, the main house is 30 feet away and it is rather close. She is their council and it is their decision they say 30 feet is reasonable if it is larger.

Mrs. Whitaker said that Laura Carlson did kindly come over but once the high trees on the Carlson's property line, shielding them, was inadvertently removed by the landscaper because he thought they were diseased, she was not interested in negotiating. She said they did not rally people up but people came to them and asked what is going on and what do you think. They are rallying around the R8 zone and the trees made a huge difference in the view etc.

Swistak asked if it would be helpful to show the condition as the carriage house as far as restoration and pictures from structural engineer so we can move forward? Commissioner Pendlebury said he can assure them that it needs to be replaced.

Commissioner Swistak asked does zoning make a decision on what is presented?

Wyatt Brochu said it is much more difficult to make changes at the zoning board hearing without advertising again. Wyatt Brochu said they have to come back again if denied but for example they could not come back with a small change it is not that simple or automatic if the ZB hypothetically is looking like it may be a negative recommendation the applicants will request a continuance or withdraw to address the finality of it.

Ms. Foppert was asked by Commissioner Swistak for Planning purposes when do you expect to be back to zoning? Wyatt? They have to re-notice and re advertise.

Brochu said there is time and the zoning board members will read your advisory opinion from the Planning Board.

Mr. Carlson said he does not read mandatory review of article 11 they asked for a continuance it seems that now that ruling was incorrect and now they have been penalized. Does this committee agree that in fact this was a mis-reading of article 11 and not within the jurisdiction for them to send anything before planning? Lisa Bryer said the Zoning Board always have the ability to ask for an advisory opinion. Deb said the Zoning board would not grant a continuance. We can redirect to Chris Costa about the next meeting. Mr. Brochu said if the information is not changing then you are just dealing with advertising and notice. Don would like an answer as to Planning not having jurisdiction. Ms. Bryer and Mr. Costa determined it did not have jurisdiction in article 11 and the memo sent to the planning commission reviewed all the standards, but as noted previously we are providing an advisory opinion.

Mr. Carlson said since they sent it back we are not reviewing it under Article 11 but under Article 5. (501 A.5. – refer matters to the planning commission as they deem appropriate). Brochu doesn't have a comment on this. Foppert said they could have continued it but Brochu said that is not what they did. Brochu asked what is your point? Foppert asked do we have to re advertise since it is the same application? Yes. Brochu said if their decision was incorrect then you have to appeal that. Wyatt is not sure what the purpose is of this discussion whether it is the same or different it has to be advertised and abutter notice given. Don Carlson said it is going to cause them more time and money.

Commissioner Swistak said we will get back to the next steps now. And bring it back to planning commission and come to an agreement of how we are going to frame our opinion in our recommendation to zoning. What did zoning ask for? An opinion on the application? They feel they do not have jurisdiction under article 11 because it is not a substantial modification in a commercial district. If it cannot be reviewed under article 11 we are simply advising under the other provision that allows an advisory position. Bryer noted that it is not helping anyone if we simply send it back and say we do not have jurisdiction under Article 11.

Commissioner Swistak personally said there are a couple of layers. It is not I support or I don't; he would feel better if he could break this down to 4 different statements and components. He is in favor of this but also has some concerns.

Commissioner Cochran said it depends on where we go with this. Are we going to do a findings of fact? Yes, Swistak said, based on facts and Ms. Foppert's presentation and the team.

Peter Herne mentioned that if they replaced the trees with a 20 foot or 30-foot mature shrub would that help? Laura Carlson said she felt terrible about this and when the landscaper was taking out diseased trees he took these too. She was shocked and apologized when this happened last fall. It was not done intentionally. It hurt everyone. They have asked to meet with the neighbor several times and she would like to come to an agreeable solution.

Commissioner Cochran asked Mr. Herne is the water view north and east or east? It is east he said, they see down the street. 15 feet from property line will not obstruct the view of the west neighbor. Legally they could place it 18 feet from the front of the property and that would be as a right.

Commissioner Swistak is going to start the Findings and have a consensus of the board. The Carlson's are going to demolish and get something there. With proper screening maybe everybody would be fine and the new building sited reasonably close to where it is today will work with screening. Maybe at the end of the day it could be ok if more screening were provided with very mature trees. Based on the 1989 decision of the zoning board to allow the building to be rented he thinks it is fair to allow that use to be continued. Going to a larger house puts the Carlson's in a better position than the property owners were in 1989 he echoed Commissioner Pendlebury's opinion. Swistak says it would be easier to see if there was less sq. ft. than the 1,100+, it is not that easy to go back to the drawing board and redesign and the design is much better. They want to move ahead with the request for relief. With the AFDU I know you give up the right to rent and that is a loss. Some parts he is in favor of and some less enthusiastic.



Foppert asked if he would be more comfortable if the building was similar in size or total volume. Mike responded yes a smaller size than currently proposed is easier for them to endorse if not too big.

Wyatt Brochu said a legally significant point is the fact that the proposed structure is larger than what was proposed in 1989 and it should be well addressed.

Laura Carlson said one of the reasons for a small amount of extra space is due to the potential for caregiver space. Jamestown is in favor of keeping aging family members here but the historical homes from 17th and 18th century with small doorways and stairways much steeper do not accommodate this.

Ms. Maccini said she agrees with Brochu. Her second point is the Whitaker's are not stonewalling or stalling this project. She is offering for the planning commission to come to the Whitakers property and take a look and see the view. The sheer mass is more than twice as big, fences and greenery is why the Whitakers are not willing to compromise.

Frank Shirley corrected that the existing is not 400 sq ft it is existing 800 sq ft building total, important fact we are going from 800 to just under 1200. It is the outline of the footprint on the ground, the footprint that is larger but the second floor is less assuming volume wise.

Wyatt said the owners were granted a variance to convert to a 1 bedroom carriage unit and the current owners have that right.

Commissioner Enright said she understood that the other conditions say retain the building which would remove the rent and subdivide by demolishing the carriage house. The applicants have the right to a 1 bedroom and Rosemary asked if they demolish it, do they still have that right? Wyatt Brochu defers to Mr. Costa who would determine the relief requested. Bryer noted that she and Chris Costa have discussed and feel that once it is gone, all rights go away but she has asked Solicitor Brochu to weigh in on this also. His opinion can be swayed by legal advice.

Carlson assumed from the get go that the variance disappears with the demolish. They are petitioning for a variance too.

Swistak asked any solid thoughts on supporting this application?

Commissioner Smith likes the idea of the new house and thinks the setback should be 15 feet from the rear and then some plantings and he thinks the 15 is a good effort and the 7-foot side setback increase to 10 feet. He thinks the second bedroom is good for the second floor. Going from 10 to 15 feet in the rear. Go beyond the current proposal. Ms. Whitaker noted that the further it comes east it is right in front of their kitchen window; the 7 feet is fine and that is what zoning requires. Cochran agrees with Smith. Coming away from rear property line.

Commissioner Prestigiacomo has concern and understand as a caregiver but if it becomes a rental down the road a 2 bedroom could be more significant in that area.

Commissioner Enright said she is thinking the same way she would like to see it as a family unit and not as a rental then it makes sense since it would be a way of making money and not a necessity. She would like to see an AFDU.

Cochran is uncomfortable and supports it as a rental. We need smaller rentals on this island. This could be a regular rental and not short term he thinks it is discriminatory that to say no rental.

Lisa asked Brochu, can the zoning board put in the condition that says no short-term rental in their approval. Enforcement is the issue Brochu said. No comment on the hurdles of that.

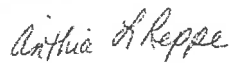
Pendlebury agrees with what has been said. Whitakers house is 15 feet from the back property line if the applicant is willing to go 15 feet it is a good compromise. I know there is concern of breaking up the backyard this is an admirable compromise. Architect did a great job for least possible impact for the neighbors. A good effort he thinks it could be done with 1 bedroom but it is the family's decision.

They will be coming back on the 16<sup>th</sup> for a decision with points of emphasis for the zoning board. Commissioner Swistak will work on this with Ms. Bryer for the next planning meeting.

#### **VII. Adjournment**

A motion was made by Commissioner Smith and seconded by Commissioner Enright to adjourn the meeting at 9:25 pm. So unanimously voted by a show of hands.

Attest:



Cynthia L. Reppe

## Technical Review Committee Minutes

August 31, 2020

3:00 PM

**PURSUANT TO EXECUTIVE ORDER NO. 20-25 EXECUTED BY GOVERNOR  
GINA RAIMONDO ON April 15, 2020  
THIS MEETING WAS TELECONFERENCED VIA ZOOM:**

- 1. 20 Brook St. –Jamestown RI - Plat 9 Lot 281, owner/applicant Donald R. Carlson and Laura J. Carlson - Application for (Alteration of a 1989) Variance/Special Use Permit to allow an existing second dwelling unit on the lot to be replaced. Forwarded by the Zoning Board to the Planning Commission for Development Plan Review/Advisory Recommendation. Advisory Recommendation to the Zoning Board – review, discussion and/or action and/or vote**

The meeting was called to order at 3:04 P.M. and the following members were present:  
Lisa Bryer – Town Planner, Chris Cost – Building and Zoning Officer, Rosemary Enright – Planning Commissioner, Mike Swistak – Planning Commissioner Chair

Also present:

Cynthia Reppe – Planning Assistant

Speaking participants: Deb Foppert – Applicant Attorney, Don Carlson and Laura Carlson- applicants, Frank Shirley- Architect, Jonathan.....-Architect, Kristen Maccini – Attorney for Whitakers, Abby Campbell King – Architect, Abutter

Town Planner Lisa Bryer said this application was heard by the Zoning Board last Tuesday August 25<sup>th</sup> and referred to the Planning Commission. She watched the video of the meeting and they discussed the applications potential applicability under Zoning Ordinance Article 11 Jamestown Village Special Development District. She has not found such applicability in this section and reads the standards from that section but recognizes that the Zoning Board has the ability to refer any application to the Planning Commission for findings and recommendations per Article 5 Section 501 – Powers and Duties of the Zoning Board of Review. She does not see where it falls under TRC requirements. Therefore the TRC will be making a recommendation to the Planning Commission who will be making an advisory recommendation to the Zoning Board. Another tool we have as the TRC and Planning Commission in the Village District is the ability to look at the Village Design guidelines and, in this case, I find them pertinent and useful.

Lisa Bryer asked Attorney Deb Foppert to review the application and rebuttal and supplemental memorandum for us. She asked if they will be changing their application to zoning board? They indicated no.

Deb Foppert discussed the project. Initially this building was first used as a daycare or nursery school. It received permission as a second residence in 1989 by the Zoning Board. She would like to think of it as accessory structure on lot.

Don Carlson owner with his sister Laura Carlson feel the issues are simpler. Their mother Jamie is sitting in front of the cottage now. The architect has determined that it is not renovatable, and not worthy of saving any part of it. This proposal complies with the accessory structure setbacks and footprint. They feel quite strongly it is fully compliant if considered this way and if considered a second principal dwelling it would not comply with the setbacks or Article 303. They noted that there are many non-conforming structures in the immediate neighborhood as well as in the village. This is a 22,000 sq. ft. lot that could be subdivided but it would lose the iconic green space so they would not like to do that. They have been surprised by the neighbors reaction on Friendship St. The immediate abutters, the Whitakers house is not within the 30 foot setback and also have a shed with zero setback. The Town does not have records for its approval. Laura Carlson spoke to them about moving it 10 feet from the property line, which is 6 feet further than it is now but they want it pushed back more towards Brook Street, where it would take on the appearance of a second residence. The proposal keeps it as an accessory type structure. The way the Carlsons see it is they would rather not subdivide the property. With it being replaced, it will be a more beautiful cottage and more compliant with setbacks.

Frank Shirley Architect and Jonathan from his office will be speaking. Frank noted that it has completely lost all of its historical significance due to renovations and deterioration. The prior owners used the least expensive amenities and it was poorly constructed. It sits on grade and there is lots of humidity coming into it. They are diminishing the relationship of the new cottage to the neighbors to the north, the Whitakers. The current building is 2 story and has a large second floor deck, and is 4 feet to the property line. They designed the roof form so it is much less of a visual influence and eliminated the deck. It provides better privacy for the Whitakers. They looked at the surrounding geographical area and there are numerous accessory buildings, every single one is set to rear corner of property. This was done in the 19<sup>th</sup> century and is done today too. There are 4 or 5 on Friendship St., Green Lane and Clinton. This structure will hopefully be seen as an asset to the neighborhood.

Attorney Deb Foppert said when she talked to the town solicitor he said it could be under section 501 or article 11 and it does not seem like it fits in there. She has not read the whole transcript from Richard Boren but Section 501 says you can refer to other boards. Has this happened before? Bryer said rarely but it has happened in the past.

Ms. Bryer thanked the Carlsons for putting together such a great team of professionals and noted Mr. Shirleys credentials. She acknowledged there is a lot of non-conformity in the area. The purpose of zoning is to create conformity. She clarified that Chris Costa has determined it is 2 dwellings on one lot. She noted that it is the kitchen that makes it a dwelling. You could keep it as it remains and turn it into a shed. You could in fact have several sheds, as long as the structures meet setbacks and you do not go over your building lot coverage allowance.

She discussed the situations where the Town allows accessory dwelling units: for affordable housing and AFDU which allow intergenerational living. AFDU are permitted as attached and detached structures. If detached they have to meet the setbacks of the primary structure.

Don Carlson said they will not subdivide if this relief is being considered.

Chris Costa noted that once the existing structure is torn down, the variance granted is no longer valid. Lisa noted that we have asked the solicitors to confirm this finding and have not received guidance yet from the solicitors who were unable to attend this meeting.

What also disappears is the subdivision restriction. When a non-conforming use is demolished, anything else then needs to comply with zoning.

Chris Costa said if removed you would be approaching this as a separate dwelling unit. Article 303 applies whether it is for rental or not. The application will require relief from Section 303; 1 principal structure per lot. This is a second principal structure, and once gone it does not exist. Ms. Foppert noted they are asking for the same relief that was granted previously and it was a variance.

Chris Costa said an accessory structure can be a barn, pool house, shed or the like. It is the kitchen that makes the difference.

Mike Swistak is thinking ahead towards Wednesday with the Planning Commission. He is listening to your needs and what they are long term. They have an empty lot to the west and if they are not granted to what they are looking for then it sounds like this is your only option, subdividing. Foppert said it is permissible to do that but that is not what they want to do but they could do it if this is not approved. This would have a much more detrimental impact to the abutters.

Swistak said immediate need is to take care of mom and meet her needs. AFDU allows you to do this with a kitchen and when the need goes away it would need to be converted into non-dwelling space. You have a solution. Deb Foppert said they are giving up the right to subdivide it.

Don Carlson asked would the AFDU have to comply with primary setbacks? If it is a separate detached structure it would. It is put in place for a reason and is very successful noted Bryer, it could be for a family member or caregiver. A yearly affidavit would have to be signed. These

things are being stated as educational for you not as a suggestion. We are reviewing your application on its merits.

Swistak noted that neighbors will be weighing in on Wednesday evening. Is there a compromise as suggested in Abby Campbell Kings letter. Mr. Carlson feels there are several issues with moving the structure forward as much as they want to meet the 30 ft setback. It would block my western neighbors water view to the east, it would require taking down the historic cherry tree and it would not fit the neighborhood rhythm of smaller carriage houses/garages towards the rear of the lot. Bryer agreed that keeping the structure in the rear is in keeping with the Village Design Guidelines and blocking views to the water are contrary to the Comprehensive Plan.

Mr. Shirley said there is not a way to make it that much smaller and the 900 sq ft because it has to be handicap accessible. That 900 square feet includes the porch. The second floor is for a caretaker in the future. They have not wanted to make it big, the look of a carriage house is what they want and cannot make it sufficiently smaller.

Lisa noted that our ordinance and the Design Guidelines, which are not part of the code for the Village but they are used by the Planning Commission frequently, say that a subordinate structure on a lot should be 20 feet behind the main plane of the primary structure. We now realize this is unrealistic in most instances since many lots in the village do not have that kind of depth, but she asked if they could do the best they can and what would that look like?

Lisa asked if we can we talk about any options that everyone can agree to?

Abby Cambell King – She has worked on both houses. They did not put a lot of money into the updates they made, they talked about jacking it up and put a proper foundation in but did not want to spend the money. She did not feel the structure was in rough shape but agreed that past renovations were cheaply done and the cupola was an addition. Her issue is putting 2 residences on R8. You can renovate a building in tough shape and put a nice addition on the side and keep on 1 level.

Kristen Macinni attorney for the Whitakers spoke. She has had not had the opportunity to review the new information submitted to TRC so she is limiting the comments to what she heard today. A 1999 variance was given from a nursery school to a 1 bedroom dwelling they are now asking for 2 bedrooms. The second structure residence is rentable according to what the Town solicitor said to her. She would like to look at what the solicitor is saying with respect to what relief is being sought.

Ms. Maccini said she was surprised that this was on the agenda so quickly and is the previous submission to zoning sufficient? Lisa Bryer said she feels all the abutters were given fair warning that this would be on a near future agenda of the TRC and Planning since they were all at the last zoning meeting. We had an opportunity to get this on quickly so we did. She asked about the rental issue and anything that prohibits rentals in residential areas. Ms. Bryer said

Short term rentals are not prohibited by town ordinance. Kristen would like Wyatt and Peter to weigh in on this.

Don Carlson said their intention is that Mom lives their independently until she cannot and then his sister would then move into the small unit and one of her children and their family would move into big house and it would likely be exclusively family.

Lisa Bryer would like the TRC to deliberate this and decide where to go. Lisa Bryer would like to tell the planning commission how we are looking at this and the standards. This is a 22,000 square foot lot that is subdividable. The Zoning Officer has made the determination that it is 2 dwellings and should meet setbacks for such or if not seek relief. Bryer believes this is simply an advisory recommendation with findings and does not believe it the standards of Article 11 apply. We have the ability to refer to the design guidelines. This will be a recommendation to the Planning Commission.

Mike Swistak said the Zoning Board is looking for a recommendation is it a 1 question answer they want? Lisa noted that as a board we have to review their request. Do you recommend it or not? Swistak said do they want the relief broken down? The solicitor can weigh in on this. Hopefully we will get guidance on this from our solicitor.

Ms. Bryer wants to nail down today what we will discuss with the Planning Commission. Dimensional relief and 303 is what we will be looking at. She asked if anyone has anything else for Findings of Fact?

Mike Swistak asked if the Carlsons come up with a different direction do we go ahead with the meeting or postpone if they change direction. We would have to look at what is being proposed. She responded, what we say is non-binding. We are making a recommendation.

Lisa Bryer said it is up to the applicant as to how they want to navigate this. In her opinion the new structure should be minimum of 10 feet back from the plane of the main structure.

Don Carlson asked Frank or Jonathan can this be set back? Jonathan said if the proposed cottage is set back 10 feet from the plane of the main house, it would be a 36-foot setback from the rear property line. There would be an overlap. Rosemary Enright said it would be next to cherry tree and might damage it. Carlson said they would have to look at it.

Abby Campbell King said in the packet there is a sketch doing what they are talking about. 32.5' on rear setback, it conforms to side and front and does not need a zoning variance. We lose the carriage house but better than all the other things. It blocks the neighbors water view said Don and Rosemary Enright said we may lose the cherry tree.

Lisa is going to make it a finding of fact regarding this option.

Don Carlson said they did not want to compromise anyone's views but the proposal is arguably better when it comes to the Whitakers and less intrusive than what is there now.

Bryer noted that 6 abutters are present and noted which numbers are showing up. Unless they tell me otherwise, they will be considered abutters. Swistak noted that the existing structure needs to be rebuilt and asked what is the precedence to ask for less relief and approve structure at the same time. Wyatt will be at the meeting on Wednesday to ask. If the amount of non-conformity is getting better we could say they should allow the relief to continue because they are making it less non-conforming.

Attorney Kristen Macinni said you are in the zoning arena and it should not be decided without Wyatt or Peter. It is her opinion any issues with zoning stay with zoning.

Swistak said add a finding of fact that we discussed in detail benefits of exploring AFDU options.

Carlson asked would it be appropriate for TRC to say this structure is appropriate? Yes, Lisa said.

Abby Campbell King said the big question to the town, is tearing down the past appropriate.

Don Carlson took offense to Abby's statement and he said he owns two historic structures in Jamestown and has spent a lot of money renovating them in a historic way. This has been first and foremost on his mind and it is Franks opinion whatever craft once belonged to this structure, it has been removed and lost its character, other than volume. That is why they were originally called, to renovate building and when they made the decision that the current building does not have its original character and is not worth saving, they were very mindful of height, proximity with the big deck right into the neighbor's yard, that deck has a beautiful view but it was worth giving up some of those features to make it better for us and them.

Lisa Bryer will prepare a memo for the Planning Commission meeting. It will be distributed. She clarified for Attorney Macinni, that this is an advisory opinion and there is not a need for written notice for neighbors.

Don Carlson thanked everyone from Planning and everyone on the call.

A motion to adjourn was made by Mike Swistak and seconded by Chris Costa to adjourn at the meeting at 4:45 p.m. So unanimously voted.

Attest:



