

Approved As Amended  
**PLANNING COMMISSION MINUTES**

July 15, 2020

**7:00 PM**

**Jamestown Town Hall**

**93 Narragansett Ave.**

<https://zoom.us/j/93470735898>

**Meeting ID: 934 7073 5898**

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

The meeting was called to order at 7:00 p.m. and the following members were present via zoom:

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  
David Petrarca – Town Solicitor  
Cinthia Reppe – Planning Assistant  
Marian Falla

**II. Approval of Minutes July 1, 2020;** review, discussion and/or action and/or vote

A motion was made by Commissioner Enright and seconded by Commissioner Smith to accept the minutes with the following changes:

Page 1, Also present add **Marian Falla**

Page 2, Reports - the town council- **residents** approved

Page 2, Old Business:

para 1, line 3: can sometimes arise with

para 3, line 4: ~~They~~ **The Planning Commissioners** have

Page 3, line 1: companies, utilizes

Page 4, para 6, line 1: we should tax ~~them~~ **short term rentals**

Page 4, last line: **Put** a piece

So unanimously voted.

**III. Correspondence**

1.FYI – email from Marian Falla re: Air BnB. Received

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

**V. Reports**

**1. Town Planner's Report**

- Town Council Update – the town is leasing the parking lot at the old ~~B of A~~ **Bank of America** building until the end of August and they will see what happens after that. The property owners have a potential buyer.
- Future meetings – topics and applications- Ms. Bryer said she will not be here for the first meeting in August.

**VI. New Business**

- 1. Zoning Ordinance Amendment related to Building Height, Proposed amendment of Sections 82-302 and 82-317. This amendment seeks to limit building height in any zoning district from exceeding 35' in height due to required elevation provisions of flood zone requirements – Recommendation to Town Council. Discussion, review, and/or action and/or vote**

Chairman Swistak said we had communication via email today from Attorney Christian Infantolino regarding this agenda item. He asked that it be continued since he was not able to attend the meeting and he felt that it was in violation of RI Executive Order 20-25. Commissioner Swistak read the letter into the record. Town Solicitor David Petrarca addressed each reason that Mr. Infantolino ~~sited~~ **cited** and gave an opinion that this item was legally permitted to go forward and gave explanation for each one of his 3 reasons. This meeting was posted on July 9<sup>th</sup> and 10<sup>th</sup> throughout town and on state and town websites in accordance with the RI Open Meetings Act. This is not in violation of the executive order 20-25 since that was superseded by Executive Order 20-53 last Friday. This is not a public hearing, this is an advisory opinion to the Town Council. He said he we long way away from it being legally adopted so we can move forward tonight. It is up to the Planning Commission if they want to discuss.

Commissioner Swistak asked if this would be normal practice if an attorney could not attend that he would find a replacement to stand in? Is that common practice? Yes. Solicitor Petrarca reached out to Mr. Infantolino but did not speak with him. Mr. Infantolino did speak to Solicitor Peter Ruggeiro today.

We would need a motion to continue this agenda item but not one to proceed as advertised. Is time of the essence in this matter asked Commissioner Smith. Lisa Bryer said every zoning amendment is timely. We are talking about it because it involves the health, safety and welfare of Jamestown residents and is a serious issue worthy of amendment. So yes time is of the essence.

Commissioner Swistak asked how long does it take for a change to zoning? It will be advertised for public hearing 3 times in the newspaper for this proposed zone change so it could be 2 to 6 months. Commissioner Cochran said we are talking about an immediate recommendation and it is not waiting for the other zoning changes we have been discussing? Planner Bryer said that is correct. Commissioner Cochran said he thinks the commission should move forward right now.

Commissioner Swistak said this will be an opinion this evening and Mr. Infantolino can give his opinion at the Town Council hearings. The Town Council is who makes the decision.

Commissioner Swistak made a motion to accept the email correspondence from Mr. Infantolino, Commissioner Smith seconded the motion. So unanimously voted:

Michael Swistak - Aye  
Rosemary Enright - Aye  
Bernie Pfeiffer - Aye

Duncan Pendlebury - Aye  
Mick Cochran - Aye  
Dana Prestigiacomio - Aye

Michael Smith – Aye

Town Planner Lisa Bryer said the Planning Commission has to determine whether this proposal is consistent with the comp plan and Zoning Enabling legislation. When the state amended the definition of building height this January, it allowed the builder to begin the building height at the top of the base flood elevation, which is anywhere from 11-17 feet above sea level in Jamestown in addition to adding up to 5 feet of freeboard. This would allow the heights to be inconsistent with Jamestown's existing character, which has homogeneous building height maxed out at 35 feet throughout the island. This could mean building heights of 49+ in our coastal areas which would change the character of our coastline. With the addition of permitting an additional 5 feet of freeboard for safety and insurance purposes, this would be a significant impact on our shoreline. I believe we discussed this in January when the definition changed and then Covid 19 hit and we postponed. After the Governor lifted the restriction, we scheduled it. She shared the amendments to the ordinance on the screen for all to see.

Section 82-317 for special flood hazard areas was adopted in 2013. We are looking to amend the definition of height and exclude base flood elevation which is important to offer. We have had a few applications that went through and in the comp plan it notes views to the water as very important and taller structures would block that view. Ms. Bryer discussed that it is usually the very first lots from water that are impacted by flood zones, she included a memo for the Town Council in draft form.

Potentially someone could build something that is 50-57 feet plus Commissioner Swistak asked. This discussion is 2 years old at a minimum. We started discussing this issue a few years ago. Commissioner Enright asked "is the reason we are addressing it now because there are applications now or in the past?" We have had applications in the past. The home at 3 Beavertail Rd. This project was started after these rules and she believes it is 5 feet above the 35' height.

Commissioner Pfeiffer asked if there is a potential based on this that could render something unbuildable? There is always an opportunity for a variance. There is another RI town that said they have a right to build 1 floor so this is not taking property rights away. But they had the potential for many more takings due to their low elevation.

This is advisory to the Town Council who will make a decision. We are deciding if this is a good idea or not. This doesn't become effective until ~~then~~ the Town Council advertises for public hearing and then passes it.

Commissioner Pfeiffer asked if someone is building now or in the process can it be halted? No.

Commissioner Enright asked "will this be folded into the new zoning ordinance?" Yes, as already adopted.

Commissioner Swistak asked if anyone of the meeting attendees want to address the Commission on this issue. No response.

Commissioner Pendlebury said we need to include a diagram with this amendment in his opinion because when it is read it is not very explanatory. Ms. Bryer said good suggestion. Commissioner Cochran should we include sea level rise? Bryer said the current way the state law is written is current and will have to be updated as sea level continues to rise. CRMC will review every 10 years.

Swistak agrees that it needs to be addressed in the memo. The Planning Commissioners discussed Findings of Fact and wording for the memo to the Town Council.

A motion was made by Commissioner Swistak and seconded by Commissioner Smith that On Wednesday, July 15, 2020, the Town of Jamestown Planning Commission held a public meeting to consider proposed amendments to the Town of Jamestown Zoning Ordinance related building height (“Zoning Ordinance Amendment”). During the public meeting the Planning Commission heard from Town Planner, Lisa Bryer, and Town Solicitor, David Petrarca, and reviewed materials provided by the Town Planner, and provided an opportunity for members of the public to provide input. After due consideration of this matter, the Planning Commission voted to approve the Zoning Ordinance Amendment related to building height, as attached. The Planning Commission also recommend forwarding the proposed amendment to the Town Council for public hearing and subsequent action.

So voted:

Michael Swistak - Aye  
Rosemary Enright - Aye  
Bernie Pfeiffer - Aye  
Michael Smith – Aye

Duncan Pendlebury – Aye  
Mick Cochran – Aye  
Dana Prestigiaco – Aye

Motion carries 7-0

## VII. Old Business

- 1. Short Term Rental Regulation. This matter concerns whether a registration, regulation or some type of control is needed and, if so, should be recommended to the Town Council for consideration and possible action - Discussion, review, and/or action and/or vote**

Lisa Bryer reviewed and responded to all the questions we had at prior meetings. Mobil Phone registration will be possible and once they receive completed registration it will be forwarded to the Clerks office. At the last meeting it was brought up that the services are expensive. When you take all the services that they charge it would be 92.00 per application. They (Host Compliance) recommend that the fee be based on the average nightly rate that is charged. They looked at August which would be higher than year-round. \$325 and we had discussed \$100 previously so somewhere in between.

Host Compliance noted that excess fees that are charged could go back to the town to address impacts from short term rentals such as affordable housing, water, police and fire department. Another service they provide is address identification. Host Compliance would send us information so we can verify new rentals to add to our list. When a new Short term rental is

identified they send a notice for registration. They also offer a Short Term Rental hotline for reporting and they verify with the reporter that the problem is really a problem. Enforcement of reporting Commissioner Swistak said he can see going off the rails. The numbers sound great but he would like to hear what happens when it goes wrong? Bryer noted that now, the only opportunity is calling the police. The police said they do not have a lot of night time disturbances.

Commissioner Prestigiaco asked, "is the hotline managed in the US or is it offshore? It would be helpful to know this. Bryer noted that she imagined that after a while, most neighbors of STR would have the hotline number in their phones. Commissioner Prestigiaco questioned if Host Compliance does the listing match what the house supports? Ms. Bryer we can have them plug in any number of elements into the search criteria.

Commissioner Cochran asked does short term rental include home sharing? May not make a lot of money and does it include the time share? We talked about this and time share will not be included.

She attached an inspection sheet at the end of her memo that Chris Costa received from Middletown. Only about 50% of their clients need inspection. Mr. Costa would still want a fire code inspection. He would require a fire inspection too.

Commissioner Pfeiffer noted and questioned whether this a process and not a one-time fix all? We may find things through the process that need to be addressed as they come up. It is not overly onerous at this point and when you get into problems is when you become more restrictive.

We talked about registration and it would be anywhere between 20 and 40 hours to review.

Commissioner Cochran how do they know who to call. It will be on our website and also the police will give the hotline number to callers. Police will respond when someone is in danger. There was discussion about Air B&B getting into long term rentals. Host Compliance said that discussion is a bit off and the numbers do not mesh. Long term rentals are a new adjunct for them and they do not see short term rentals getting smaller. Air B&B is adding that as a new business. Their business only dropped 3% between March and May this year.

Commissioner Swistak said taking a step to get more input from maybe the local realtors and maybe invite B&B owners too along with realtors. What is the impact does it hurt or help, can we do that at the next discussion? Lisa Bryer said yes if everyone is comfortable with the ordinance then we can bring the realtors and owners in. Changes can still be made along the way.

Bryer said CCHC is targeting Aug 19 for a planning meeting for 53 Narragansett Ave. The next meeting after that is September 2<sup>nd</sup> which is before Labor Day this year.

Marian Falla - didn't think time shares were going to be removed, why are they excluded. RE agents have a lot of short term rentals that are not listed. Right on their street they have them a lot of short term in summer and long term in winter.

Lisa Bryer said, if we have real estate agents here we will get that information.

Ms. Falla does not understand why we are drawing a line on short term. Enright said issues that apply to STR do not generally apply to long term. Ms. Falla thinks all rentals should be registered and STR regulated. Swistak said right now only registration is being discussed.

Our next Planning meeting will be on the 19<sup>th</sup> of August. If something urgent comes up and we can get a quorum together for an off week we will add a meeting.

### **VIII. Adjournment**

A motion to adjourn the meeting was made by Commissioner Enright and seconded by Commissioner Cochran at 8:49 p.m. So unanimously voted.

Attest:



Cynthia L Reppe  
Planning Assistant