

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS TOWN OF
JAMESTOWN ZONING BOARD OF REVIEW

APPLICATION OF SHM JAMESTOWN BOATYARD, LLC

**APPLICANTS' MEMORANDUM IN SUPPORT OF APPLICATION FOR SPECIAL
USE PERMIT AND DIMENSIONAL RELIEF**

Introduction

The application before this Board is a modification to a special use permit as well as for set back and lot coverage dimensional relief in order to replace an existing stairway to meet building code and install an ADA compliant access ramp and make some interior modifications to the building known as the "rigging shop". Because this property is operating under a special use permit, no improvements, inclusive of the ADA components, can be completed without this Boards approval. The Applicant has provided testimony that the primary use of the upland property is boat storage and maintenance business and that the requested relief is not an intensification of the use. The Objectors are basing their opposition on a speculative fear of what "MIGHT" occur at some future time. Their fear is not factual evidence upon which this Board can properly base a denial of relief. Speculative fears about what "MIGHT" occur lack the substance necessary for a proper denial of relief.

Facts

The property known as 60 Dumpling Drive has been in use as a boat storage and maintenance facility since as early as 1910. Since then the upland property has continued to be used as a boat storage and maintenance facility. In 2016 this board issued a special use permit and requests for dimensional relief on the property in order to make modifications to one of the buildings on the property. When the special use permit was granted in 2016, the business offered amenities incidental to its operations that included all of the amenities listed by the objectors as

new first-class amenities, excepting the dog park. In January of 2020 the applicant purchased the business and real estate from Jamestown Boat Yard, Inc.. Through this acquisition the applicant received a certificate of zoning conformance from the Jamestown Zoning Official. (see attached). The Applicant has not changed its use or offered additional amenities not offered in 2016. Since the acquisition the only proposed change to the property is what is currently before this Board which includes exterior modifications to include the replacement of the current stairway system to one that is within building code compliance, the addition of an ADA compliant ramp to the existing outside showers and access to the newly proposed ADA compliant interior bathroom. The applicant also proposes to reallocate the interior space to make it more functional. No new areas are being proposed, rather moving the current kitchen and placing the sanding shop closer to the varnishing shop. The Applicant has provided testimony that there is no intended increase in use for the interior area, rather the area makes the shop more efficient and provides ADA compliant bathroom facilities.

Discussion

The Applicant is before this Board because they currently operate under a Special Use Permit and as such any changes (whether increases or decreases) must be approved by this Board. Nothing in this application or the testimony provided shows a change in the use of the property and or an intensification of the use of the property. As previously stated, all of the amenities advertised on the Applicants web-site, except the dog park, have existed on the property for years and were in existence upon the granting of the 2016 Special Use Permit. No evidence has been provided that the Applicant is proposing a change in the use of the property nor is there any information on the record that the applicant intends to change the use of the property (i.e. all amenities incidental to the current use of the property are NOT new and have

been in existence for years and the Applicant is not changing the use or applying to change the use to a Yacht Club as speculated by the Objectors).The Objectors are basing their opposition on a fear of what “MIGHT” occur at some future time. Their fear is not factual evidence upon which this Board can properly base a denial of relief. Speculative fears about what “MIGHT” occur lack the substance necessary for a proper denial of relief.

Pursuant to the Jamestown Zoning Ordinance Sec. 82-301, Table 3-1VI (F)(9).Ship and Boat Storage and Repair, the Applicants use of the property is an allowable use by Special Use Permit. The Applicant is currently operating its business under a Special Use Permit and is now requesting a modification to that permit to allow for the proposed exterior modifications, which said modifications require dimensional relief. This Board has the inherent authority to modify and/or revise its decisions. The applicant has provided testimony that the interior revisions and exterior modifications will not result in conditions harmful to the public health safety and morals and that the granting of the relief will not substantially or permanently injure the appropriate use of the property in surrounding area, criteria required by Section 82-602 of the Jamestown Zoning Ordinance. The subject property has been used for boat storage and maintenance since the early 1900’s and the Applicant does not propose to change the use or intensify the use of the subject property. If in the future the Applicant wants to change the use to another allowable use it will be required to apply to this Board for such permissions.

Conclusion

The Applicant has provided testimony in support of its application that the proposed modifications to the property will not change the use of the property or cause an increase in the intensity of the use of the property. The Objectors are basing their opposition on speculation and fear of something that might happen rather than what is proposed and before this Board and what

is actually happening at the property. If the Applicant decides to change the use there are procedures in place to handle these situations. As such, we respectfully request this Board grant the modification to the Special Use Permit along with the associated requested dimensional relief.

SHM JAMESTOWN BOATYARD, LLC
By It's attorney,



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ZONING LETTER



ZONING BOARD OF REVIEW
Town of Jamestown

93 Narragansett Avenue
401-423-7200

Jamestown, Rhode Island
02835-1190

ZONING CERTIFICATE

This is to certify that the property located at: 60 Dumpling Drive

Plat: 10 Lot: 18, 20, 141, & 143

Property Owner: Jamestown Boatyard Inc.

Zoning District: R-80

Use of this property as a: Boatyard / Boat Storage

Remarks: The Above reference is a non-conforming use authorized by Special Use Permit.

Date Issued
Nov. 5, 2019


Building/Zoning Official
Chris N. Costa



ZONING BOARD OF REVIEW
Town of Jamestown

93 Narragansett Avenue
 401-423-7200

Jamestown, Rhode Island
 02835-1199

Subject Property: *Jamestown Boatyard
 60 Dumpling Drive
 Jamestown, RI
 Parcels 10-143; 10-20; 10-141; and 10-18*

In response to your request for information regarding the above-referenced property, we have researched our files and present the following:

1. The current zoning classification for the subject property is R-80

2. Adjacent property zoning designations:

North: Residential South: Residential
 East: Residential West: Residential

3. According to the zoning ordinances and regulations for this district, the use of the subject property as a boatyard/marina and related amenities is a:

- Permitted Use by Right
- Permitted Use by Special/Specific Use Permit Copy Attached Copy Not Available (see comment)
- Legal Non-Conforming Use (no longer permitted by right due to amendments, re-zoning, variance granted or other changes. See comments)
- Non-Permitted Use

Comment: _____

4. The subject structure(s) was developed:

- in accordance with Current Zoning Code Requirements and is
 - Legal Conforming
 - Non-conforming (see comments)
- in accordance with Previous Zoning Code Requirements (amendments, rezoning, variance granted) and is Legal Non-conforming to current zoning requirements.
- Prior to the adoption of the Zoning Code and is Grandfathered/Legal Non-conforming to current zoning requirements.
- in accordance with Approved Site Plan and is Legal Conforming to approved site plan. If any nonconforming issues exist with respect to current zoning requirement; the subject property would be considered legal non-conforming.

Comment: _____

5. Information regarding variances, special permits/exceptions, ordinances or conditions:

- There do not appear to be any variances, special permits/exceptions, ordinances or conditions that apply to the subject property.
- The following apply to the subject property (see comments):
 - Variance - Documentation attached or is otherwise, no longer available (see comment)
 - Special Permit/Exception Documentation attached or is otherwise, no longer available (see comment)
 - Ordinance Documentation attached or is otherwise, no longer available (see comment)
 - Conditions Documentation attached or is otherwise, no longer available (see comment)

Comment: 3 documents attached 5/25/81 variance, 9/14/84 Special use/variance, 2/24/16 Special use/Var. _____

6. **Rebuild: In the event of casualty, in whole or in part, the structure located on the subject property:**

- May be rebuilt in its current form (i.e. no loss of square footage, same footprint, with drive through(s), if applicable).
- May not be rebuilt in its current form, except upon satisfaction of certain conditions, limitations or requirements. Please see section _____ of the current zoning code/ordinance for details.

7. **Code Violations Information:**

- There do NOT appear to be any outstanding/open zoning, building or fire code violations that apply to the subject property.
- The following outstanding/open zoning / building / fire code violations apply to the subject property:

Comment: _____

8. **Certificate of Occupancy, status:**


- A valid Certificate of Occupancy has been issued for the subject property and is attached.
- Certificates of Occupancy have been issued and are in effect for all buildings and, if required, for all units at the Property; however, we are unable to locate a copy in our records. The absence of a copy of the Certificate(s) of Occupancy will not give rise to any enforcement action affecting the property.
- Certificates of Occupancy for projects constructed prior to the year _____ are no longer on file with this office. The absence of a copy of the Certificate(s) of Occupancy will not give rise to any enforcement action affecting the property. A Certificate of Occupancy will only be required for new construction.
- A Certificate of Occupancy is not required for the subject property.

Comment: _____

9. **Site Plan Information:**

- The subject property was not subject to a site plan approval process.
- The subject property was subject to site plan approval; a copy of the approved site plan is attached.
- The subject property was subject to site plan approval, but a copy of the approved site plan is no longer in existence (was lost or destroyed). All other existing documents applicable to site plan approval for the site are attached if available.
- An approved site plan for the subject property is on file, but our office does not have the necessary resources to reproduce and distribute copies of the plan. All other existing documents applicable to site plan approval are attached if available.
- Other, (as noted here): _____

This information was researched on _____, 2019, by the undersigned, per request and as a public service. The undersigned certifies that the above information contained herein is believed to be accurate and is based upon, or relates to the information supplied by the requestor. The Authority assumes no liability for errors and omissions. All information was obtained from public records, which may be inspected during regular business hours.

By:  Print Chris N. Costa _____

Title: Building/Zoning Official Department: Building/ Zoning

Phone: 401-423-9803



ZONING BOARD OF REVIEW
Doc# 00050465
Bk# 867 Ps#
Town of Jamestown

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93 Narragansett Avenue
401-423-7200

Jamestown, Rhode Island
02835-1199

February 24, 2016

Jamestown Boat Yard
Christian Infantolino, Esq.
77 Narragansett Avenue
Jamestown, RI 02835

Dear Sir,

The following is the decision on your Petition heard by the Town of Jamestown Zoning Board of Review on February 23, 2016.

After testimony was completed at the public hearing for which due notice was given and a record kept, the Town of Jamestown Zoning Board of Review, after taking into consideration all of the testimony and exhibits at the public hearing, makes the following determination:

A motion was made by Richard Boren and seconded by Joseph Logan to grant the request of Jamestown Boat Yard, Inc. whose property is located at 60 Dumplings Dr., and further identified as Assessor's Plat 10, Lots 141, 143, & 20, for a Special Use Permit granted under Article 6, Special Use Permits and Variances, pursuant to Section 82-7044, Alteration of a non-conforming use and Article 3, Section 82-301/ Table 3-1 Section F.8 and F.9, and dimensional relief from Section 82-302 District Dimensional Regulations, and Table 3-2, for setback relief and lot coverage relief, to permanently enclose the existing temporary structure and construct a permanent structure to replace 2 other temporary structures for the continued use of boat storage.

Regarding this request, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600.

Regarding the request for a Variance, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 606, PARAGRAPHS 1 through 4, and SECTION 607, PARAGRAPH 2.

Regarding the request for a Special Use Permit, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 602.

This Variance is granted with the following restriction(s):

The conditions set forth in a letter dated 2/23/16 from Joseph J. Nicholson, Jr. Esq., to the Zoning Board and assented to by the applicant is incorporated herein as if set forth in full and shall be appended to the decision.

This project must be constructed in strict accordance with the site and building plans duly approved by this Board.

This motion is based on the following findings of fact:

1. Said property is located in a R80 zone and contains 92,965 sq. ft.
2. Building #2 has been drastically reduced.
3. There is no longer a need for dimensional relief for building #2.
4. Nine abutting families have agreed to the application with the afore mentioned conditions.
5. All construction will take place within the required setbacks.
6. The permanent structures will replace longstanding temporary structures for the continued use of boat storage.
7. The temporary sheds have been in existence on the property at least since 1994 and do not stand up to bad weather.
8. The applicant is seeking to aesthetically improve the boatyard.

The motion carried by a vote of 5 -0.

Richard Boren, Joseph Logan, Judith Bell, Terence Livingston, and Edward Gromada voted in favor of the motion.

Dean Wagner was recused and Richard Cribb was absent.

This special use permit/variance shall expire one year from the date of granting unless the applicant exercises the permission granted.

Very truly yours,



Richard Boren, Chairman
Jamestown Zoning Board of Review
RB/pw