

Approved as written
PLANNING COMMISSION MINUTES
May 4, 2022
7:00 PM
Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 7:05 p.m. and the following members were present:

Mike Swistak – Chair	Duncan Pendlebury – Vice Chair
Mick Cochran	Rosemary Enright – Secretary
Diane Harrison	Bernie Pfeiffer
Dana Prestigiacomo	

Lisa Bryer, AICP – Town Planner

Wyatt Brochu, Esq. – Town Solicitor

Carrie Kolb – Planning Assistant

Robert Braisted, applicant 68 Narragansett Ave.

Mary Jo Roberts-Braisted, applicant 68 Narragansett Ave.

Michelle Mendes, applicant 905 North Main Rd.

Antonia Lee Mendes, applicant 905 North Main Rd.

Christian Infantolino, Esq, Attorney at Morneau & Murphy

Patrick Freeman, PE, American Engineering

Michael Russell, PE, LDEC Engineering & Consulting

Daniel Herchenroether, AIA, Herk Works Architecture

II. Citizen’s Non-Agenda Item – none

III. New Business

1. Mendes, 905 North Main Road, AP 16 Lot 336 - 2 Lot Subdivision

a. Reinstatement of Preliminary Plan Approval (originally approved February 20, 2020)

b. Extension of Minor Subdivision approval for one year

Chair Swistak recused himself. Vice Chair Pendlebury sat as Chair for this application.

Commissioner Pendlebury explained that this is a 2-lot subdivision that was approved on February 20, 2020. The applicant failed to extend. This is a reinstatement approval with no

changes. The reinstatement will begin on May 4, 2022 with a one-year extension. Final approval will be administrative.

A motion moved by Commissioner Pendlebury and seconded by Commissioner Enright as follows:

To Reinstatement the Preliminary Plan Approval (originally approved February 19, 2020 and expired on February 19, 2021) of the (revised) application for Antonia L. Mendes, Trustee, AP 16 Lot 336, 905 North Main Road - 2 Lot Minor Subdivision. They also voted to extend the Minor Subdivision approval to May 4, 2023.

So voted:

Commissioner Cochran – aye Commissioner Enright – aye
Commissioner Harrison – aye Commissioner Pfeiffer – aye
Commissioner Prestigiacomo - aye Commissioner Pendlebury - aye

Commissioner Swistak took the Chair.

2. Robert and Mary Jo Roberts Braisted, 68 Narragansett Avenue, Plat 8, Lot 122 (aka Cozy Sheep) – Development Plan Review under Article 11 for a new structure within the Jamestown Village Special Development District, Review, discussion and/or action and/or vote.

Christian Infantolino, lawyer for applicant, gave an overview of what the application includes: the application; the Planning Set of 12 sheets of plans; a stormwater management plan and the TRC minutes. The project is for 68 Narragansett Ave, AP 8, Lot 122, which is located in a CD district. It will be mixed use with retail on the first floor and two residential units on the second floor. This project does not need a variance. The applicant worked diligently with the Town. Here today are: the applicants, Robert Braisted and Mary Jo Roberts-Braisted; architect Dan Herchenroether with Herk Works; and engineer Mike Russell with LDEC Engineering and Consulting.

Michael Russell is a principal with LDEC Engineering & Consulting located 207 High Point Ave. in Portsmouth, RI. Russell presented his credentials as a licensed engineer in the State of Rhode Island.

A motion to accept Michael Russell as an expert witness was moved by Commissioner Swistak and seconded by Commissioner Pfeiffer. All in favor.

Russell explained that the project does not need any zoning relief. The lot is small lot as most lots are in downtown. The building is the center core of the property and will occupy 30% of the lot. The gradient is from left to right when standing on the street. One of the civil engineering tasks is storm water. Soil testing was performed. The property will be serviced by municipal sewer and water. The curb cut will be relocated to the southwest corner of the property.

Narragansett Ave. is a state road and getting permit from RI DOT to move the curb cut. Bill Moore, Building Official with Town of Jamestown, wants this permit process started before building permit is given.

The site plan was discussed. A stone driveway will help with storm water management. The roof area will be comprised of downspouts and header systems that will be directed subsurface

chambers to handle a majority of the roof area. The remainder of the roof will be handled through pervious hardscape on the east side and shallow infiltration trenches on the back of the garage. The design mitigates the storm required for Jamestown.

A landscape plan introduced with the packet.

Braisted explained that there is a retaining wall and a small patio in the back. There is not much room for landscaping except along eastern edge of driveway. There will be fencing, 6-foot white PVC, on the perimeter of the property. There is an existing hedge between the two properties.

Commissioner Swistak asked for further explanation of the capture of the water because it is different than what the Planning Commission is used to seeing. Russell explained that the capture is low profile chambers that do not have to go deep into the ground. The detail is described on page 5 of 5 of LDEC plans.

Commissioner Pfeiffer asked if there are underground chambers are located in the driveway? Russell explained that they are located in the driveway. The chambers are H2O rated and you can drive over them.

Commissioner Pendlebury asked Braisted if he had discussed tree protection with the church (next door)? Braisted stated that the tree line is on the church side. They have talked with the church before. They are not anticipating any impact when they start building. Braisted stated that he will bring plans over to show the church, as they have a good relationship now and will keep it way.

Commissioner Enright questioned if Braisted will discuss the type of fencing with the church? You will see the fencing from the shrine. It's a visual relationship with the church and it's important to have them understand. Braisted responded that there is an abutter who has the same fencing. They will certainly discuss the fencing with the church and get feedback.

Commissioner Pendlebury asked about the grade slopes and sheet flow? Braisted replied that the grade slopes somewhat north to southeast. Russell stated that the underground trench will handle the run off of that section of the property.

Daniel Herchenroether of Herk Works Architecture located at 36 Aquidneck Ave. in Middletown, RI. Herchenroether presented his credentials. A motion to accept Daniel Herchenroether as an expert witness was moved by Commissioner Swistak and seconded by Commissioner Enright. All in favor.

Herchenroether described the view points of the building as detailed on sheet A010. The glass front first floor is retail and Braisted wanted to be clear with the Commission that the first floor will have retail. The second floor will be residential. The site plan as detailed on sheet A011 was discussed. There are seven parking spaces. The parking in the driveway and garage will have 3-point turn radius as detailed on the plan. The trash cans will be hidden from street view. There is an outdoor shower, generator and propane.

Commissioner Pfeiffer asked about the distance between the propane and the generator? He thinks there are restrictions and wants them to check into it. Herchenroether stated that he isn't sure that it was based on the generator being 10-feet away from an operational window. The applicant agreed to look into it.

The lighting plan as detailed on sheet A012 were discussed. There are no pole lights or bollard lights due to small lot. There are small can lights pointing down under the roof. The gooseneck lights are down facing as well. There is no light pollution going into the sky.

The first-floor plans (A111), second floor plans (A121) and third floor plans (A131) are not reviewed in detail. Commissioner Swistak asked Herchenroether and/or Infantolino to share the opinion of the Building and Zoning Official shared at the TRC meeting regarding use of the third floor. Infantolino explained that in the ordinance it stated that there should only be 2 stories and there is provision for use of attic space. The Building and Zoning Official stated that no variance is required and it's recorded in the TRC minutes. The "third floor" is within the roof frame. Commissioner Swistak asked about the third floor? Herchenroether stated the third floor is about 500 square feet. It's a vaulted space that is within the roof line.

Commissioner Harrison asked if apartment will be rented or for a family member? Roberts-Braisted stated that her mom has been living with them for 10 years.

Commissioner Enright asked if the plans are all walk up? Braisted stated that it is all walk up and there is a potential for an elevator if they can fit it in.

Commissioner Pendlebury asked about the 50.35-foot benchmark on the outside of sidewalk? Braisted stated that the benchmark is on the telephone pole. The sidewalk pitches towards the street. Russell's plan shows all the contours. Discussion ensued regarding that the data on the plans is correct.

Commissioner Pendlebury asked what kind of retail tenant are you thinking about? Braisted stated that Mary Jo is an artist and retail shop for her.

Commissioner Swistak asked about mature tree in the front of the driveway?

Braisted has already discussed with tree warden. The tree in question is on the list of trees that to be replaced with a smaller tree. Commissioner Swistak asked if the tree can get through the construction? Braisted stated "yes". Commissioner Swistak asked if you can see out of the driveway? Braisted answered yes and it doesn't pose any existing problems with the driveway. He is happy to work with the tree warden and the Town.

Commissioner Swistak asked about the sprinkler system? Braisted stated that they weren't going to have a sprinkler system. They want this building to be a zero net build.

Commissioner Swistak asked about the infiltration system for run off and is there maintenance required? Is it in the report? Is it listed on the plan? Braisted stated that the maintenance is listed in the stormwater management in the report. Infantolino stated that they will pull the maintenance information from the report and filed with the plans when recorded.

Commissioner Enright told the applicant that the former name of the house was "Grove Cottage".

A motion moved by Commissioner Swistak and seconded by Commissioner Cochran; amended by Commissioner Pendlebury as follows:

At the May 4, 2022 Planning Commission meeting, the Commission voted to Grant Development Plan approval of the application of Robert Braisted and Mary Jo Roberts- Braisted, 68 Narragansett Avenue, Plat 8, Lot 122, Jamestown, RI, to build a 3-unit mixed use structure with 2 residential units and one commercial unit, based on the following findings and subject to the following conditions of approval.

Findings of Fact

1. The Town Planner met with the applicant several times over the last year to discuss the progress of the project and to provide comments;

2. The Applicant submitted the following in support of this application:
 - a. An application dated 4-12-22 and updated on 4-25-22
 - b. Plans by Herk Works Architecture dated 4-25-22:
 - i. AO Cover
 - ii. AO10 Views
 - iii. AO101 Basement Plan
 - iv. A111 1st Floor Plan
 - v. AO12 Site Lighting Plan
 - vi. A121 2nd Floor Plan
 - vii. A131 3rd Floor Plan
 - viii. A211 Front Elevation
 - ix. A221 Side Elevation
 - x. A231 Rear Elevation
 - xi. A241 Side Elevation
 - xii. Parking Plan A011
 - c. Landscape Plan and Planting Notes by MDG dated 4-12-22
 - d. Engineering Plans and Stormwater Management Report by LDEC Land Development Engineering and Consulting Sheets 1-5 dated April, 2022 and 4-11-22 respectively;
3. The proposed mixed-use structure is permitted in the CD Zoning District
4. The Lot proposed for development is 5,750 square feet where 5,000 square feet are required for a mixed-use structure where both uses are permitted uses;
5. The Village Special Development District permits 2 stories maximum, where the net floor area of the third floor (attic) of a structure should not exceed 75 percent of the area of the ground floor. This proposal meets that standard. The Building Official has determined that the living space above the second floor is within the roof frame and therefore not a 3rd floor;
6. The building height in the CD district and throughout the island is 35 feet and the plans show the proposed structure as 34.5 feet;
7. Christian Infantolino, Esq represented the applicant;
8. Michael Russell, PE and Daniel Herchenroether, AIA represented the applicant as expert witnesses before the Planning Commission on 5-4-22;
9. The property is serviced by municipal water and sewer;
10. The Landscape plan is adequate when addressing the public realm;
11. Refuse from the 3 units will be handled individually in the rear of the building;
12. The applicants indicated this will be their primary residence, a studio/commercial space for Ms. Roberts-Braisted and an apartment;
13. Narragansett Avenue is a State Highway and the new curb cut/drainage to the State drain system will need to be permitted by RIDOT;

14. Parking is adequate;

Conditions

1. This approval is for a mixed-use structure containing 2 residential units and 1 ground floor commercial unit;
2. The applicant shall receive approval from the Board of Water and Sewer Commissioners for the new commercial use;
3. The applicant shall apply for a PAP (physical alteration permit) from the RIDOT prior to building permit issuance for the curb cut. This will include review and approval of the drainage;
4. The applicant shall be responsible for any damage or wear caused by construction or the new curb cut to the existing sidewalk in front of and adjacent to the property. The town is responsible for maintaining the sidewalks. A bond may be required if not completed prior to a CO being requested;
5. The Operation and Maintenance Plan for the drainage system and the pervious pavers should be provided on the record plan which shall be recorded with the final approval;
6. On site storage of refuse shall not be visible from Narragansett Avenue;
7. The applicant's Architect, Dan Herchenroether, testified that the structure will comply with the 35-foot height limit;
8. Applicant will confirm that the generator's proximity to the propane tank is permissible by code;
9. The applicant shall coordinate with the Tree Warden/Public Works Director regarding the town tree that may need care or replacement due to the driveway location;
10. Applicant will coordinate with abutting Catholic Church regarding protection of trees on church property during construction;
11. Final Development Plan approval shall be granted Administratively;

So voted:

Commissioner Pendlebury - aye

Commissioner Cochran – aye

Commissioner Enright – aye

Commissioner Harrison – aye

Commissioner Pfeiffer – aye

Commissioner Prestigiacommo - aye

Commissioner Swistak - aye

3. Palo Alto LLC, Plat 1 Lots 234 and 302, North Main Road and Wickford -
Administrative Subdivision, 2 lot subdivision with no new lots being created, Review,
discussion and/or action and/or vote

Patrick Freeman, PE of American Engineering located at 400 S. County Trail #201 Exeter, RI. Freeman has spoken before the Planning Commission before and they are comfortable with him

as an expert witness. A motion to accept Patrick Freeman, as an expert witness was moved by Commissioner Swistak and seconded by Commissioner Pendlebury. All in favor.

The application proposes to make Lot 302, an existing non-conforming lot, a conforming lot with our zoning ordinance by removing the westerly property line and making the new westerly property boundary the mean high tide mark of Narragansett Bay and increasing its size to 2.7 acres. There are proposed access and utility easements. The access and utility easements shall terminate one year after the sale of either Lot 302 or Lot 324. This is an administrative subdivision. The applicant would like the conditions to happen when there is a change in the property ownership. There is a maintenance agreement for Wickford Avenue and it will be approved by Town Solicitor and Town Administrator.

The existing wells are located in Wickford Avenue. When residential building permits are pulled for the lots, they will be relocated then.

Discussion ensued on the abandonment of non-conforming OWTS on Lot 234. There is no evidence of a conformed OWTS in DEMs system. There are maintenance records, the unit has been located and it is not a cesspool. They are confident that there is not a cesspool on the property and confident that they do not have a DEM approved OWTS. Bryer points out that the plans still state there is a cesspool. Freeman stated that the plans do say cesspool, but they recently had it confirmed that the owner had a tank installed, they have located the tank, but they do not know where it discharges to. The plans will be updated. Lot 302 has an existing building that will be razed, the current OWTS will be abandoned, and there is an approval for a new OWTS.

Commissioner Swistak asked Bryer to review accepted public road vs. non- accepted gravel roads

Bryer stated that there was a petition to keep Wickford Ave a public road. The previous owners blocked it off. The public was going on the private property to access the water when using the public right of way. The Town became a party in a quiet title action. A small portion of the road went to David Martin, Stearns Farms, by the water and the rest went to the Town. It is a publicly accepted public town road that is a non-maintained road.

Solicitor Brochu explained that as part of a subdivision plan, the applicant will bring the road up to a standard and be responsible to maintain that road in order to access the property. The Town will basically give them a license to maintain the road. It's important because emergency vehicles have to be able to access the road.

Commissioner Pendlebury asked about the street specifications as stated on the plans?

Bryer stated that she verified with police and fire that it is acceptable.

Discussion ensued regarding Stearns Farm, the public right of way to the water and the possibility of stairs to the access the water in the future.

Discussion ensued regarding the road technically being substandard and it was argued that the road has been in its current condition for 20+ years.

Commissioner Swistak stated that part of the conditions of approval is to improve the road prior to subdivision. Infantolino stated in this application the road will be improved after the sale of the lot, once there is a change in ownership. Bryer stated that in order to approve a subdivision, the road must be safe and have adequate emergency access. She does not feel that the road is currently safe for emergency.

Solicitor Brochu stated that they need to improve it or there needs to be a bond. Infantolino agreed to a bond. Brochu stated that the bond will ensure that the work gets done by either the current owner or any future owner. The bond needs to be issued prior to subdivision approval. The applicant and DPW set up the value of the bond with professional estimates. Bryer read the regulations. Discussion ensued regarding the transfer of the bond if/when the property is sold because the bond will be for both lots.

Discussion ensued of the having the road centered in the right of way and marked on the plans. Freeman stated that the road does meander and it's slightly offset to include parking. The improved road will be centered in the right of way. Freeman also stated that the radius is for turning of emergency vehicles.

Discussion of road maintenance agreement ensued. Solicitor Brochu stated that there have not been any conversations between his office and the Town. His office and the Town will look into things so they can be comfortable with easements expiring with the sale of a property. He asked that the Planning Commission not grant approval this evening so the bond can get put in place and the applicant can come back to the Planning Commission without any conditions.

Infantolino stated that the applicant would like to put the property on the market and would like approval tonight to move forward.

Discussion ensued regarding the unusual nature of the application. It has been a complicated subdivision even though it's moving lot lines it also involves road improvements, utilities and the easements that go away with a sale of a property.

A motion moved by Commissioner Swistak and seconded by Pendlebury and amended by Commissioner Enright to continue until: a bond amount is agreed to between Town and applicant; a maintenance agreement is settled between the Solicitor, applicant and Town; and drawing corrected to reflect removal of cesspool.

So voted:

Commissioner Pendlebury - aye	Commissioner Cochran – aye
Commissioner Enright – aye	Commissioner Harrison – aye
Commissioner Pfeiffer – aye	Commissioner Prestigiacomio - aye
Commissioner Swistak - aye	

IV. **Correspondence** (Continued from 4-20-2022)

Correspondence was acknowledged that it was in the meeting information packets.

1. Approval of Development Plan for 12 Holmes Court to construct a new house, Plat 8 Lot 362
2. Final Approval of Jamestown Properties, LLC, Chris Pike, AP 9 Lot 795, 30 Walcott Avenue – 2 Lot Minor Subdivision
3. Memo to Zoning Board of Review for Zoning Ordinance Section 82-314 – High Groundwater Table and Impervious Overlay District Sub-district A
 - a. John Welch: AP 1, Lot 221; 11 Bay View Drive North
 - b. Lino Corredora 86 Stern Street: AP 14, Lot 80
4. Letter from Jamestown Affordable Housing Committee dated April 12, 2022 re: 91 Carr Lane

V. Reports

1. Planner's Report –

- Future meetings – topics and applications – no information to discuss.
- Start the next meeting on May 18th at 6:30 if Palo Alto is on the agenda.

VI. Approval of Minutes – review, discussion and/or action and/or vote

1. April 6, 2022 (Continued from 4-20-2022)

A motion was moved by Commissioner Enright and seconded by Commissioner Pendlebury to approve the minutes as written. So unanimously voted. Commissioner Swistak recused himself for vote on Jamestown Properties.

2. April 20th minutes were continued.

VII. Adjournment

A motion to adjourn at 9:14pm was moved by Commissioner Enright and seconded by Commissioner Swistak. So unanimously voted.

Attest:



Carrie Kolb