

**Pat Westall**

From: Dianne Grippi <dianne@islandrealtyri.com>
Sent: Monday, December 5, 2022 6:36 PM
To: Pat Westall; Michael Gray; Denise Jennings; Christian Infantolino
Subject: Zoning Board of Review for 15 Fowler

Good afternoon,

I understand that William Tracey, who owns 15 Fowler Street, is asking for dimensional relief for the side lot which abuts my property at 9 Fowler. I do hope, as Bill states, that the original structure will remain, and if so, I do not have any issue with this. However, I do feel if the original structure is torn down, and a new construction building goes in its place, that I would receive notice of that and would be able to see details. This could then become a problem for my property with drainage, water/sewer issues, garbage, etc. I also would like to state that since purchasing 9 Fowler, I have had numerous issues with the sewer line, which services my property at 9 Fowler and 5 Fowler, owned by Alfred Bingnell. We are the only two properties on that street with a very old clay sewer pipe. I have had Roto Rooter out to my home on 4 separate occasions at a cost between \$700 and \$1,000 each time, and I have receipts. I have since replaced the sewer line from my house to the street with Richard Wolfe of Wolfe Construction at a cost of approximately \$3,000, even though the previous owner had already done this. At one time I was told to remind Mike Gray monthly to have it jetted and to continue to ask for this repair. Although I am no longer having back up issues (since my son now lives there full time and the daily use appears to take care of it) I am asking if the construction at 15 Fowler requires digging up the road that the sewer line for 9 and 15 Fowler be tied in to the one that William Tracey ties into I believe on Valley Street. If another sewer line is available, then that could work as well. Both Mike Gray and Rich Wolfe have stated that this needs to be done, yet there appears there is never funding for it. On occasion I get sewer odors in 9 Fowler and this should not be happening. I fear if there is construction, regardless of where the manhole is, that this could jeopardize the old clay pipe in the street currently servicing 9 and 15 Fowler.

I hope you will take this request seriously. I have never brought my receipts to the town, I took care of the issues. I have lived here in Jamestown for 30+ years and would like to be a good neighbor and have this issue reviewed and addressed.

Thank you,

Dianne Grippi
82 Narragansett Avenue
Jamestown, RI 02835
401-741-3183

received
12-6-22 pu

CORRESPONDENCE

Pat Westall

From: Christian Infantolino <cinfantolino@jamestownlawyer.com>
Sent: Tuesday, December 6, 2022 8:21 AM
To: Peter Medeiros; Pat Westall
Cc: Monica Martins
Subject: 35 Sloop Street

Peter,

Please accept this correspondence as a request to continue the above mentioned matter to the January meeting. One of our experts has a conflict on December 20th and we will need his testimony for the relief being requested.

Although I will also be at the meeting to make this request and answer any questions, please pass this information along to the Board so that they can plan accordingly.

Thanks for your time and consideration with this matter.

Best,
Christian

Christian S. Infantolino
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Peter D. Ruggiero
Wyatt A. Brochu
David R. Petrarca, Jr

TO: JAMESTOWN ZONING BOARD of REVIEW
FROM: Peter D. Ruggiero, Town Solicitor
RE: Appeal of Zoning Enforcement Officer Decision;
Accessory Building Front Setback
DATE: December 6, 2022

I. FACTS

You have requested that I review and provide a legal opinion regarding whether the Zoning Enforcement Officer's interpretation of the relevant provisions of the Jamestown Zoning Ordinance that an accessory building is prohibited from being located in a front yard setback area was arbitrary or capricious, as alleged by the appellant. The Zoning Enforcement Officer's determination was conveyed by email, dated October 28, 2022, stating in relevant part that:

It is my position that...any use which is not specifically included in the use provisions of this section [82-301] is prohibited. There are no front setbacks listed for accessory structures, therefore, accessory structures are not permitted in front yard setbacks.

The appeal, filed by Randy Ross and Jill D. Smith, alleges, in relevant part, that "there is no explicit prohibition on accessory structures and/or buildings to be located in front yards." The Appellants seek that the Zoning Board of Review to overturn the decision of the Zoning Enforcement Officer that "accessory structures are not permitted in front yard setbacks."

II. STANDARDS OF REVIEW

An appeal from a decision of the Zoning Enforcement Officer is governed by the relevant standards set forth in Section 82-501 of the Jamestown Zoning Ordinance. When considering an appeal from the Zoning Enforcement Officer, the Zoning Board acts in the place of the Zoning Enforcement Officer, must elicit evidence, resolve any evidentiary disputes, make findings of fact

from legally competent evidence entered into the record of the hearing, and renders a decision therefrom. See e.g. LeCroix v Town of Westerly Zoning Bd. Of Rev. WC-2008-0281 (June 6, 2013).

III. ANALYSIS

“Any use which is not specifically included in the use provisions of this section is prohibited, unless the zoning enforcement officer rules that such use is included in any of the general classifications or subclassifications set forth herein.” Jamestown Zoning Ordinance 82-301. The Zoning Enforcement Officer applied this provision to his determination that there are “no front setbacks for accessory structures, therefore, accessory structures are not permitted in front yard setbacks.” Peter Medeiros email to Christian Infantolino (Oct. 28, 2022). Furthermore, Section 82-300 of the Jamestown Zoning Ordinance, states, in relevant part that “[n]o structure or land shall hereinafter be used or occupied and no structure, including signs, or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.”

Appellant states in their appeal that “there is no explicit prohibition on accessory structures and/or buildings to be located in front yards.” The Appellant’s argument impermissibly reverses the burden of interpretation that the Zoning Enforcement Officer must apply. The Zoning Ordinance need not list every prohibited use or activity. Unless specifically permitted by right or by conditional or special use, any use “not specifically included in the use provisions...is prohibited....” § 82-301. As such, the determination of the Zoning Enforcement Officer in this matter was not arbitrary or capricious.

IV. CONCLUSION

The Zoning Enforcement Officer reviewed the request of the Appellant to place an accessory building within the front setback for their property located at 2 West Passage Drive. The Zoning Enforcement Officer applied a proper analysis when he determined that pursuant to the relevant

provisions of the Jamestown Zoning Ordinance the proposed use was prohibited. On appeal, the Zoning Board may sustain, overturn, or provide a different interpretation regarding this issue as they stand in the role of the Zoning Enforcement Officer.

received
12-6-22 pw

CORRESPONDENCE

**Charles Normand
Lynn Normand
30 Topmast Court
Jamestown, Rhode Island 02835
401-595-8115**

VIA EMAIL (pwestall@jamestownri.net)

December 6, 2022

Town of Jamestown
Zoning Board of Review
93 Narragansett Avenue
Jamestown, Rhode Island 02835

RE: Application of James Schnelle for Variance at 27 Topmast Court

Dear members of the Zoning Board of Review:

This letter is in support of the Application for a variance submitted by our neighbor, James Schnelle, for his property at 27 Topmast Court, further identified as Assessor's Plat 3, Lot 525. We are advised that Mr. Schnelle seeks a variance from Art. 3, Sect. 82-302 Table 3-2, to site an 8' x 12' shed inside a fenced backyard 180 ft. from the lot frontage and 8-10 feet (20 ft. required) from the lot's east side.

Our property abuts the fence and the proposed location for the shed. We have no objection to the plan and support the application of our neighbors, James and Tracy Schnelle.

If you have any questions, feel free to call me at 401-595-8115

Thank you for your attention to this matter.

Have a nice holiday season and a Merry Christmas.

Sincerely,


Charlie Normand