

Approved as amended
PLANNING COMMISSION MINUTES
April 19, 2023

6:00 PM – Planning Commission Meeting
7:00 PM - Planning Commission Public Workshop for
Zoning Ordinance Update

Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 6:00pm and the following members were present:

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

Not present: Diane Harrison

Also present:

Lisa Bryer, AICP – Town Planner
Carrie Kolb – Planning Assistant
Wyatt Brochu, Esq. – Ruggiero, Brochu & Petrarca
Jeff Davis, Horsley Witten
Greg Fagan – applicant
Patrick Freeman, PE, American Engineering
Gwendolyn Lupinek - applicant
Franklin Chew – applicant
James Callaghan, Esq. – Callaghan & Callaghan
Nathan Chofay - Principe Company

II. Citizen’s Non-Agenda Item - none

III. New Business

1. High Groundwater Table and Impervious Overlay District, Sub-District A
 - a. Mizzen Mast Properties, LLC: AP 15, Lot 243; 32 Mizzen Avenue, Jamestown, RI – Recommendation to Zoning Board of Review; review, discussion, and/or action, and/or vote;

Patrick Freeman, PE of American Engineering, 400 South County Trail – Suite A 201, Exeter, RI represented the applicant. A motion was moved by Commissioner Swistak and seconded by Commissioner Cochran to accept Patrick Freeman as an expert witness. All in favor.

Freeman explained the site plan. The site is located on easterly side of Mizzen Avenue. There is an existing 2-bedroom dwelling with a shed, private well, OWTS, and ground cover of lawn and trees. The property slopes from east to west and there are no wetlands onsite. The soil evaluation placed the property in subdistrict A. The total existing impervious area is 6.5% with the house, shed and concrete pad, and the total proposed impervious cover will be 9.9%, less than the permitted 13%. The applicant is proposing an addition to the dwelling and a porch. The concrete pad will be removed, a crushed stone driveway will be installed, and the rain garden is proposed to mitigate the increased stormwater runoff.

Discussion on the number of external entrees and septic ensued. Greg Fagan, applicant for 32 Mizzen Ave, spoke that the home was owned by eight siblings, including himself. The family comes to visit all summer and having access to the outdoors is necessary. Fagan will live in the home year-round. A question was asked if the septic was sufficient? Fagan said the septic has been that way for 50 years, they have never had a problem and the home is only full during the summer months.

Discussion on how to access the loft ensued. Fagan said that the loft is accessed by a ladder. The loft is used for storage. A new access panel was moved to the lower level.

A motion was moved by Commission Swistak and seconded by Commissioner Pendlebury as follows:

At the April 19, 2023 Planning Commission meeting, the Planning Commission voted unanimously to recommend to the Jamestown Zoning Board, approval of the application of Mizzen Mast Properties LLC: AP 15, Lot 243; 32 Mizzen Avenue, Jamestown, RI; being reviewed under Zoning Ordinance Section 314 - High Groundwater Table and Impervious Overlay District Sub-District A review in accordance with the plans entitled “Town Submission for Mizzen Mast Properties LLC., Located at 32 Mizzen Jamestown RI” dated 2/22/23, prepared by American Engineering, Inc.”, and the supporting material prepared by American Engineering, Inc., 400 South County Trail – Suite A 201, Exeter, RI 02822, 401-294-4090.

The recommendation for approval is based on the following findings of facts and recommended conditions of approval as noted in the Memo from Jean Lambert, PE dated March 14, 2023 at the Planning Commission meeting:

Findings of Fact Section 314

Existing Conditions:

1. The property is 14,400 square feet (sf) in area;

2. The existing site is developed with a house, shed and concrete pad (total existing impervious area is 938 sf or 6.5%);
3. Topography on the lot slopes from east to west (towards Mizzen Avenue) on the site;
4. There are no freshwater wetlands on the property;
5. Soil evaluation results show that the site falls under Sub-district “A” requirements of the High Groundwater Table and Impervious Overlay District with 48” to the seasonal highwater table and 36” to impervious soil;
6. The **maximum impervious cover allowed is 13.0% or 1872 sf.**

Proposed Site Conditions:

7. The applicant is proposing to construct an addition (447 sf) and a porch (46 sf). The concrete pad (6 sf) will be removed;
8. A crushed stone driveway will be installed;
9. The existing OWTS (RIDEM #0315-2267: 2-bedroom conventional) is current for maintenance (last inspection January 2021);
10. A rain garden is proposed to mitigate the increase stormwater runoff associated with the site improvements;
11. A rain garden with a total treatment volume of 111 cf is will be installed (100 cf required);
12. The **total proposed impervious cover will be 1425 sf (9.9%),** less than the permitted 13.0%
13. The applicant’s representative Patrick Freeman, PE of American Engineering, Inc, was accepted as an expert witness, and present at the Planning Commission meeting representing the application before the Planning Commission on April 19;
14. Jamestown Engineer Jean Lambert provided correspondence to the Building File and Lisa Bryer, Town Planner dated March 14, 2023 regarding the application (attached).

Recommended Conditions of Approval

1. The proposed project complies with the requirements of the HGWT Ordinance;
2. NO additional bedrooms allowed – existing OWTS permit allows 2 bedrooms only;
3. Erosion and sediment controls must be installed at the down gradient limits of site disturbance and maintained until stabilization of the site is attained;
4. After installation, maintenance and inspection of the OWTS shall continue as required by the Town Onsite Wastewater Management Ordinance;
5. The rain gardens shown on the approved site plans must be installed and maintained as outlined on the notes on the approved site plan and the operation and maintenance plan. The Operation and Maintenance (O & M) Plan (reproduced in 8.5” x 11” for the stormwater mitigation (rain garden) shall be recorded in the Office of the Town Clerk

with the Zoning Approval and evidence of such shall be provided to the Zoning Enforcement Officer as well as the Planning Department;

6. Any additional future site work that increases the area of impervious coverage will require a review, following the requirements of the High Groundwater Ordinance.

So voted:

Commissioner Swistak -aye

Commissioner Pendlebury- aye

Commissioner Cochran - aye

Commissioner Enright - aye

Commissioner Pfeiffer - aye

Commissioner Prestigiacomo – aye

Motion carries 6-0

- b. Gwendolyn Lupinek and Franklin Chew, AP 1, Lot 332, 6 Middle Street, Jamestown, RI - Recommendation to Zoning Board of Review; review, discussion, and/or action, and/or vote;

James Callaghan of Callaghan & Callaghan, 3 Brown Street, Wickford, RI, represented Gwendolyn Lupinek and Franklin Chew. Lupinek and Chew have owned 6 Middle Street since 1997, and the existing 3-bedroom home was built in 1972. The applicants have looked into all options to renovate the home, however best course of action will be to raze the exiting home and re-build. The home is within the High Groundwater subdistrict A zone. They will also be seeking a special use permit and variances for setbacks. The whole new structure will be smaller than the original structure. The lot has size limitations, it is undersized for the zoning district. The proposed plan is conservative and thoughtful. The staff recommendation was positive.

Nathan Chofay, engineer with Principe Engineering, 27 Sakonnet Ridge Drive, Tiverton, RI, presented his education and work experience to the Planning Commission. A motion was moved by Commissioner Swistak and seconded by Commissioner Pendlebury to accept Nathan Chofay as an expert witness. All in favor.

Chofay explained that he has worked on the project and conducted all the site work, storm water design and OWTS system. The OWTS has been permitted by DEM. The OWTS system has been improved and erosion and sediment controls have been laid out. There were six test holes dug in the area. A conservative approach was taken for the design purposes at zero from original grade. The allowed coverage is at 8%. The concrete patio and walkway will be eliminated to help decrease the existing coverage. The stormwater systems have been designed for a 10-year storm. The northern part of the roof will direct roof rain water to a rain garden and the southern part of the roof will direct rain water to underground chambers via gutters. Principe Survey has conducted a Class 1 survey.

Discussion over the plans ensued. A paper street was identified and the property ends at the paper street. The CRMC limits line was west of the existing dwelling. Attorney Callaghan noted that the applicants will go to CRMC after the Planning Commission and Zoning decision. The existing well will be reused.

Discussion on the garage ensued. The question was asked if the applicants could take out the garage for a smaller shed? Attorney Callaghan said that the applicants are requesting the existing garage to stay for storage purposes. Lupinek said that they use the garage for storage, tools and that it is well utilized and full. The square footage of the garage is 268 square feet.

Discussion ensued over the foundation. The applicants could have used less of the foundation and built a two-story home to meet the 8% of impervious surface.

Lupinek let the Planning Commission know that they want a one-story house and it's very hard for Chew to get upstairs. It would be a hardship to live in a two-story home. If they put a full second story on the house it will block their neighbor's water-view. They even talked with their neighbors on where to put the half-story for the third bedroom, and there will be two bedrooms on the first floor. Attorney Callaghan asked Lupinek how long the process has taken? Lupinek said the process has taken almost two years and they have looked at many different options and cut down a lot. She said they bought the house in 1997 and the zoning changes came in 2003. They have a 1/3 of an acre and are trying to build on what they have.

Discussion of the stormtech system ensued. Chofay said that he over-designed for a 10-year storm. The property currently does not have stormwater storage. Chofay said that he re-graded the site to help direct the water.

Commissioner Swistak said that this board has been strict with the percentages of impervious surface. He asked Bryer to weigh in. Bryer stated that they are not increasing square footage. They are adding a septic system and infiltration, and they make a difference in pre- and post-development. From a building perspective it will be a new house, but there is a house already there and they are utilizing the foundation. If the applicant did nothing to the lot, there would not be a new septic or drainage. Commissioner Enright said that the advantages of a new septic system are greater than a smaller footprint.

A motion was moved by Commission Swistak and seconded by Commissioner Cochran as follows:

At the April 19, 2023 Planning Commission meeting, the Planning Commission voted unanimously to recommend to the Jamestown Zoning Board, approval of the application of Gwendolyn Lupinek and Franklin Chew, 6 Middle Street, AP1 Lot 332, Jamestown RI; being reviewed under Zoning Ordinance Section 314 – High Groundwater Table and Impervious Overlay District Sub-District A review in accordance with the plans entitled “Onsite Wastewater Treatment System Alteration for AP1 Lot 332, 6 Middle Street in Jamestown, RI” revision dated 1/5/2023,” prepared by Principe Company. The supporting material prepared by Principe Company, 27 Sakonnet Ridge Drive, Tiverton, RI 02878, 401-816-5385 and Attorney James Callaghan, 3 Brown Street, Wickford, RI 02852, 401-294-4555 for the above referenced property.

The recommendation for approval is based on the following findings of facts and recommended conditions of approval as noted in the Memo from Jean Lambert, PE dated April 6, 2023 and amended at the Planning Commission meeting:

Findings of Fact Section 314

Existing Conditions:

1. The property is 17,899 square feet (sf) in area and located in a RR-80 zone where 80,000 square feet is the minimum lot size. The lot is existing nonconforming;
2. The existing site is developed with a 1688 sf house, gravel driveway and a 268 sf detached garage (total existing impervious area, which includes a walkway and two small concrete pads, is **2,069 sf or 11.6%**);
3. Topography on the lot slopes from west to east on the site, towards Narragansett Bay;
4. Soil evaluation results show that the site falls under **Sub-district "A"** requirements of the High Groundwater Table and Impervious Overlay District with 0" from original grade to the seasonal highwater table and 0" from original grade to impervious soil;
5. The maximum impervious cover allowed is **8.0% or a maximum of 1432 sf**. The existing site exceeds the allowable area by 637 sf.;
6. There are no freshwater wetlands on the property. The property is within the jurisdiction of CRMC;
7. Gwendolyn Lupinek testified that the new house design was influenced by current family needs and the desire to not impact the neighbor's water views.
8. Gwendolyn Lupinek and Attorney Callaghan both testified that there is a desire to keep the existing garage as there is a need for an additional storage area;

Proposed Site Conditions:

9. The applicant is proposing to raze the existing house and rebuild a new, slightly smaller house (1645 sf) on the same footprint;
10. A new 3-bedroom advanced treatment OWTS (RIDEM #2115-1647: Advantex to bottomless sand filter) and rain garden are proposed;
11. The total proposed impervious cover will be **2000 sf (11.2%), a decrease of 69 sf.**;
12. The applicant is proposing to decrease the impervious area on the site. However, Town policy is to treat a razed house as starting from raw land. Therefore, stormwater peak flow mitigation is required for the entire new rooftop. The total required treatment volume is 422 cf.;
13. A recommendation from the Planning Board is required before requesting a Special Use Permit from the Zoning Board. A reduction in overall impervious area is proposed;
14. The site is an existing nonconforming lot; dimensional variances will be required at zoning for the front (40' required), rear (40' required) and side (30' required) setbacks. The application is requesting dimensional variances for the front yard (25' requested

where 40' required), rear yard (32.2' requested where 40' required); and side yard (west-19.7' requested where 30' required) and the existing structure has the same setbacks;

15. An existing patio and an existing walkway will both be removed in an effort to reduce lot coverage;
16. The rain garden and subsurface infiltration system provides 422 cf of storage. The stormwater systems will provide water quality treatment and peak flow mitigation for a 10-year frequency storm event;
17. **The project exceeds the 8% allowable impervious cover** but otherwise complies with the requirements of the HGWT;
18. The applicant's representatives Nathan Chofay of Principe Company, Inc. Engineering Division, was accepted as an expert witness, and Attorney James Callaghan, Callaghan & Callaghan were present at the Planning Commission meeting and represented the application before the Planning Commission on April 19;
19. Jamestown Engineer Jean Lambert provided correspondence to the Building File and Lisa Bryer, Town Planner dated April 6, 2023 regarding the application (attached).
20. The site conditions are improved by the installation of a new OWTS system and stormwater mitigation, which is handling 100% of runoff for a 10-year storm, and these conditions were not present previously;

Recommended Conditions of Approval

1. The Planning Commission recommends the requested variances as proposed in the application due to the site improvements as noted in the findings of fact above;
2. Erosion and sediment controls must be installed at the down gradient limits of site disturbance and maintained until stabilization of the site is attained;
3. After installation, maintenance and inspection of the OWTS shall continue as required by the Town Onsite Wastewater Management Ordinance;
4. The rain garden and subsurface infiltration system shown on the site plans must be installed and maintained as described in the submitted operation and maintenance plan. The Operation and Maintenance (O & M) Plan (reproduced in 8.5" x 11" for the stormwater mitigation (rain garden) shall be recorded in the Office of the Town Clerk with the Zoning Approval and evidence of such shall be provided to the Zoning Enforcement Officer as well as the Planning Department;
5. Any future site work that increases the area of impervious coverage will require a review following the requirements of the High Groundwater Ordinance.

So voted:

Commissioner Swistak -aye
Commissioner Cochran - aye
Commissioner Pfeiffer - aye

Commissioner Pendlebury- aye
Commissioner Enright - aye
Commissioner Prestigiacomo – aye

Motion carries 6-0

IV. Correspondence

1. Letter to Gail and John Redmond, 148 Narragansett Avenue, Plat 8 Lot 76, Jamestown, RI for Development Plan Review application.
2. Letter for Development Plan Review Approval to change existing development plan, 29 Narragansett Ave, AP 9 Lot 631, Jamestown, RI.

Correspondence recognized as received.

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

1. March 15, 2023

A motion was moved by Commissioner Swistak and seconded by Commissioner Cochran to approve the minutes from March 15, 2023 as amended. All in favor.

Page 2: New Business: paragraph 2, sentence 2: remove ~~—to store that sits covered on the property.~~

Page 2: within three reasons: number 2: add “is” to read “The proposed structure is similar...”

Page 3: paragraph 1 sentence 3: change ~~Normandy~~ to Norway.

Page 3: paragraph 1 sentence 4: change ~~compliance~~ to compliant

Page 3: paragraph 1 sentence 5: add “as possible” to end of sentence

Page 3: paragraph 3 sentence 2: remove ~~were~~

Page 3: paragraph 4: sentence 1: correct spelling of Discussion

Page 3: paragraph 4: sentence 2: remove ~~The question of lot coverage arised.~~

Page 4: paragraph 2: sentence 1: ~~can not~~ to cannot

Page 4: 29 Narragansett application: paragraph 1 sentence 1: remove ~~for~~ and replace with “to reach”

Page 4: 29 Narragansett application: paragraph 1 sentence 2: remove ~~fireplace~~, replace with “chimney”

Page 5: paragraph 1 sentence 2: remove ~~loose~~, replace with “lose”

Page 5: paragraph 3 sentence 7: remove ~~and~~ replace with “from height restrictions;”

Page 5: paragraph 3 sentence 8: remove ~~This~~ replace with “The request”

Page 7: paragraph 1 sentence 2: correct spelling of Ordinance

Page 7: paragraph 1 sentence 5: to read “three bodies are involved...”

Page 8: paragraph 2 sentence 2: remove ~~would~~ replace with “should”

Page 8: paragraph 2 sentence 3: remove ~~though~~ replace with “thought”

VI. Old Business

1. **Public Workshop - Zoning Ordinance Update review, discussion and/or action and/or vote**

A. Zoning Ordinance presentation from Jeff Davis of Horsley Witten

Bryer welcomed everyone to the workshop. She explained the Planning Commission has done a comprehensive update and worked very hard for last 3-4 years. The process for the Zoning Ordinance Update: the Planning Commission with Horsley Witten draft the ordinance and re-writes and hold Public Workshops. The Zoning Ordinance then goes to the Town Council, they hold the public hearing (s) and approve them. Then Zoning Office and Board enforces the

Zoning Ordinances. It is one of the rare instances in the Town where three major boards of government are involved in a process.

Bryer introduced Jeff Davis with Horsley Witten Group.

Davis welcomed the group to the second of two workshops. His presentation can be found at www.jamestownzoning.com.

Davis presented:

- Use Performance Standards
 - Accessory Dwelling Units
 - Bed & Breakfast
 - Cottage Development
 - Solar
 - Wind
 - Communications Towers
 - Chickens
 - Fishery Equipment
 - Underground Storage Tanks
 - Home Occupations
- Parking Regulations
- Sign Regulations
- Low- and Moderate- Income Housing
- Housekeeping from Rhode Island General Law 2022

Questions from the Planning Commission:

Commissioner Cochran asked if a flag is a sign? Davis said we need to be careful about not regulating content due to the case law. Commissioner Cochran followed up, that a lot of political flags are quite big. Davis said that other communities do limit how many can be displayed.

Commissioner Pendlebury asked if sandwich boards can be in the public right of way? Bryer said that the Town does allow sandwich boards in the right of way by permit.

Commissioner Pendlebury asked that ground mounted solar not be allowed in the front yard. Davis said that he will add the language in accessory structures. And he can add a caveat for waterfront properties (through lots) with special use permit since those properties are often challenged with putting all accessory uses in the “rear” yard.

Commissioner Cochran asked about nuisance ordinances, and if fish odor is any different? Davis said no. Bryer said that the Code of Ordinances addresses nuisances including odors.

Bryer asked Davis if conservation development was discussed at the last meeting? Davis said no. Bryer said that conservation development had been discussed previously, but it was not incorporated into the Zoning Ordinance. Conservation development is a new way to discuss cluster developments, the name just changed.

Jeff Davis said a change requested at the last meeting:

- How are design guidelines are applied to multi-family structures? The same language used for development within the Village District should be applied to multi-family structures to be consistent.
- Fish ponds: Davis recommended adding language to section 82-703 for swimming pools include “inground man-made water features more than two feet deep with an impervious bottom” and fish ponds would be subject to the same fencing standards as swimming pools.
- Clarified that flashing signs and LED signs are considered animated signs which are prohibited. Clocks or barber polls are the exceptions.

Davis will look into adding maintenance requirements of the rain gardens to the high groundwater section of the Zoning Ordinance.

B. Public Comment

Dennis Webster – 22 Mount Hope Avenue

1. Does the limit of 6 chickens apply to farms? Davis said it does not apply to farms/commercial. Farms are covered by the state right to farm act.
2. Asked if there is a limit on how long a property remains as affordable housing? Bryer answered that it depends on how the housing is developed.
3. How may affordable housing units have been lost in Jamestown due to expiring? Bryer replied none, that the Senior Housing and housing built by Church Community are in perpetuity. There are some in Town that will expire in the future.
4. Is there a length of time for accessory units for in-laws? Bryer said that accessory units for in-laws are not deemed affordable by State standards.
5. He stated that he has a concern for farms and forested areas being turned into solar developments and specifically ground mounted solar. Davis said that the trees can be removed when absolutely necessary. Soils must be maintained. There are limits on the area of a farm that can be used for solar. Bryer said that all farms in Jamestown have conservation easements. Webster said that he is concerned for forested areas. What if there is a lot that does not have a house on the property, are there limits? A major energy system is permitted in public districts, RR 200 and RR 80. Brochu said if it is allowed by right then it can go there.

Webster said that he is a fan of solar. He has solar panels on his roof tops. He asks the planning commission to look closely to ground mounted solar, as they worry him. The commission committed to looking again at the permission for commercial systems in residential districts.

Elizabeth Minutti, 31 Buloid Avenue

1. Are cisterns underground storage containers? Davis said that water cisterns are not. Bryer said that our Zoning Ordinance encourages cisterns and they are not restricted.

Christi Work, 15 West Passage Drive

1. Has a question about cottage clusters, can you put 6 cottages on any property in a R-40? How does water and sewer work? Bryer said that an application would go through a major land development project application and it would be permitted in RR 80, RR 40, RR 20, RR 8 and CL, but not in RR 200 because of watershed district. Work asked if the cottages are rentals or individually owned? Davis said that the cottages can be ownership or rentals. There needs to be enough land to accommodate cottages, parking, open space. The availability of water and utilities are a separate subject. Bryer said cottage clusters are a new concept that we want to encourage in the town. Jamestown is a single-family home community. Cottage clusters allow a different housing choice and are an opportunity for housing to be less expensive, a smaller house.

Sandy Sorlien, 82 Howland Avenue

1. Asked if cottage clusters have a minimum lot size? Bryer said cottage clusters would follow “other permitted uses” which is the minimum lot size in each district. Brochu said that the Planning Commission needs to be aware that permitting by right or special use permit allows an applicant to apply for a variance for lot size. The Planning Commission will look at the permitted districts again.
2. In the cottage clusters, why do the design standards make the cottages different? Davis said that there are 14 things to do to add variety to the cottages and the applicant must apply 5. This is done so that two identical cottages cannot be built next to each other, encouraging variety.
3. With allowing smaller single-family dwellings, have you talked about allowing housing in smaller pre-existing lots? Bryer said that the Town does allow affordable housing on smaller lots for permanent affordable housing. She is in favor of reducing lot sizes in the village.

Davis wrapped up with next steps. The next Planning Commission meeting is on May 3, 2023. He asked the commissioners to gather all their thoughts, and have another round of options or amendments before going to Town Council.

VII. Reports

- Planner’s Report
 - Future meetings – topics and applications

Bryer said that there are lots of applications. There are about 4 high groundwater applications, a Subdivision application that is in the works, a Communications Tower application. The next meeting on May 3, 2023 will just focus on the Zoning Ordinances. There is a possibility that we may not have a meeting on June 7, 2023.

VIII. Adjournment

A motion to adjourn at 8:32pm was moved by Commissioner Enright and seconded by Commissioner Pfeiffer. All in favor.