

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the September 28, 2004 Meeting

A regular meeting of the Jamestown Zoning Board of Review was held at the Jamestown Library, 26 North Road. The Chairman called the meeting to order at 7:03 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty
Richard Boren
David Nardolillo
Elizabeth Brazil
Dean Wagner

Also present: Brenda Hanna, Stenographer
Pat Westall, Zoning Clerk
Fred Brown, Zoning Officer
J. William W. Harsch, Counsel

MINUTES

Minutes of the August 24, 2004 meeting.

A motion was made by Dean Wagner and seconded by David Nardolillo to accept the minutes of the August 24, 2004 meeting as presented.

The motion carried by a vote of 5 – 0.

CORRESPONDENCE

A copy of a letter to Tom Ginnerty from the Deputy Town Clerk re: member's terms to expire.

A copy of a letter to RI DEM from Amy Vigars re: App.#0315-0037.

A copy of a letter to RI DEM from Joanne Sullivan re: App.#0315-0037.

OLD BUSINESS

52 Westwind Dr.

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to deny the request of 52 Westwind Dr. Associates LLC, whose property is located at 52 Westwind Dr., and further identified as Tax Assessor's Plat 8, Lot 667 for a variance from Article 3, Table 3-2 (District Dimensional Regulations) to construct a two car garage 28' from front setback instead of required 40'.

This Board has determined that this application does not satisfy the requirements of Article 6, Section 600, Section 606, and Section 607, Paragraph 2.

This motion is based on the following findings:

1. Said property is located in a R40 zone and contains 66,046 sq. ft.
2. The applicant seeks relief to construct a garage after having converted a previously existing garage into a family room, the applicant's prior actions created the condition from which he now seeks relief.
3. The testimony of the applicant clearly demonstrates that numerous alternatives exist for the location of a garage without the granting of dimensional relief.
4. The applicant could construct a similarly sized garage without an attached vestibule and not require relief, or he could construct a small garage without dimensional relief, hence the relief sought is not the least relief necessary.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Richard Boren, David Nardolillo, Elizabeth Brazil, and Dean Wagner voted in favor of the motion.

Don Wineberg, Raymond Iannetta, and Joseph Logan were absent.

NEW BUSINESS

Andres

A motion was made by Richard Boren and seconded by Thomas Ginnerty to deny the appeal of Frank and Magdalena Andres, whose property is located at 13 Clinton Ave., and further identified as Tax Assessor's Plat 9, Lot 213 pursuant to Article 5, Section 503.

This motion is based on the following findings of fact:

1. Said property, Tax Assessor's Plat 9, Lot 201, is located in a CD zone and contains 12,605 sq. ft.
2. The applicants have the burden of proof.
3. The applicants have not met their burden of proof.
4. The present use by John Brittain is substantially for open lot storage.
5. The open lot storage has been continuous, on going, and without intention of abandonment.
6. The open lot storage is a legal non-conforming use.
7. As set forth in Harmel v. Tiverton Zoning Board of Review, the present use by John Brittain is not substantially different from the non-conforming use to which the premises were previously used.
8. The current use by John Brittain is not of such proportion as to amount to an extension or intensification of use as set forth in Santoro v. Zoning Board of Review Warren.
9. The evidence elicited is that the use of storage containers by Mr. Brittain was well within one year of the prior use by the former owner and for his tenants and comports with Section 707.
10. The placement of the storage containers by Mr. Brittain is not inconsistent with the grand fathered use of the property.
11. The use of open lot storage containers by Mr. Brittain does not constitute an alteration of a non-conforming use.
12. The use made by Mr. Brittain conforms to Section 703 A & B.
13. The use made by Mr. Brittain is not in violation of Section 704.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Richard Boren, David Nardolillo, Elizabeth Brazil, and Dean Wagner voted in favor of the motion.

Don Wineberg, Raymond Iannetta, and Joseph Logan were absent.
McCaffrey

A motion was made by Dean Wagner and seconded by Richard Boren to grant the request of William K. McCaffrey et ux Glenna J., whose property is located at 982 East Shore Rd., and further identified as Tax Assessor's Plat 1, Lot 330 for a variance from Article 3, Table 3-2 (District Dimensional Regulations) to add an addition 22' from the side yard wherein 40' is required.

This Board has determined that this application does satisfy the requirements of Article 6, Section 600, Section 606, and Section 607, Paragraph 2.

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 32,000 sq. ft.
2. There are no objectors to this application.
3. If the variance is not granted, the hardship suffered by the owner amounts to more than a mere inconvenience.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Richard Boren, David Nardolillo, Elizabeth Brazil, and Dean Wagner voted in favor of the motion.

Don Wineberg, Raymond Iannetta, and Joseph Logan were absent.

Swett

A motion was made by David Nardolillo and seconded by Richard Boren to grant the request of Bradford N. Swett, whose property is located at 49 Walcott Ave., and further identified as Tax Assessor's Plat 9, Lot 854 for a variance from Article 3, Table 3-2 (District Dimensional Regulations) to build a garage 4' from the rear setback line (10' required) and from Article 3, Section 311 to build a garage which is greater than allowed (385 sq. ft. allowed: 576 sq. ft. requested).

This Board has determined that this application does satisfy the requirements of Article 6, Section 600, Section 606, and Section 607, Paragraph 2. In particular reference to Article 6, Section 606/607, Paragraph 2.

This motion is based on the following findings of fact:

1. Said property is located in a R40 zone and contains 40000 sq. ft.
2. The setback of the present structure is now non-conforming, established before the present zoning regulations were in effect and is in great disrepair.
3. The new structure will be less of a non-conformance than presently exists.
4. The new structure's square footage while more than allowed by zoning is only so because of the extremely small size of the new caretakers house being constructed.
5. The new structure will not affect the adjacent area in fact it abuts a private drive and will be an improvement to the area.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Richard Boren, David Nardolillo, Elizabeth Brazil, and Dean Wagner voted in favor of the motion.

Don Wineberg, Raymond Iannetta, and Joseph Logan were absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 10:15 p.m.

The motion carried unanimously.