

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the September 27, 2005 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 7:06 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty
Don Wineberg
Raymond Iannetta
Richard Boren
Joseph Logan
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 23, 2005 meeting.

A motion was made by Thomas Ginnerty and seconded by Raymond Iannetta to accept the minutes of the August 23, 2005 as presented.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

CORRESPONDENCE

A letter from Larry Parks re: Open Meetings Act.

A letter from James Donnelly requesting a continuance of the application of Maria Dolos.

Dolos

A motion was made by Thomas Ginnerty and seconded by Joseph Logan to continue the application of Maria Dolos to the next regular meeting at the request of her attorney.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

A letter from Mark Liberati requesting a continuance of the application of Doris Arthur.

Arthur

A motion was made by Thomas Ginnerty and seconded by Raymond Iannetta to continue the application of Doris Arthur to the next regular meeting at the request of her attorney. This is the last continuance of this application and the advertisement needs to be republished.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

OLD BUSINESS

Cingular Wireless

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the application of Cingular Wireless to the November meeting with republication.

A motion was made by Richard Boren and seconded by Thomas Ginnerty to add the condition that the application be republished and that they submit new material if there are changes.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

Sheehan

A motion was made by Richard Boren and seconded by Don Wineberg to **deny** the request of Kerry Sheehan, KLS Construction, (Mark Brasil, owner) whose property is located on Court Street, and further identified as Tax Assessor's Plat 2, Lot 6 for a variance from Article 3, Section 82-302, District Dimensional Regulations and Street Frontage Requirements to construct a single family home on a paper road 40 ft. from the front line (40 required), 36 ft. from the rear line (40 required), 12 ft. from the right side (30 required), 12 ft. from the left side (30 required), and 50' lot frontage (200 ft. required).

This Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

In particular reference to ARTICLE 6, SECTION 606. PARAGRAPH 3 in that the granting of the variance will impair the intent of the zoning ordinance.

This motion is based on the following findings of fact:

Sheehan cont.

1. Said property is located in a RR80 zone and contains 5000 sq. ft.
2. The Town Council had a legitimate purpose to include this area of Jamestown in an RR80 zone when it adopted the Zoning Ordinance.
3. RR80 zone is designed to allow land uses which will not substantially impact the rural character of the zoning district nor compromise natural resources.
4. Although a 24' x 24' foundation may be the minimum, it still would be 576 sq. ft., which is greater than 11.5% of the lot coverage.
5. The frontage on this lot is 50'; 200 feet is required.
6. In an RR80 zone, minimum side lot setbacks are 30' on each side for a total of 60'. This application is 12' on either side for a total of 24', not even one-half of the requirement.
7. The rear lot line is 36' where 40' is required.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo and Dean Wagner were not seated.

Elizabeth Brazil was recused.

Kosacz

A motion was made by Thomas Ginnerty and seconded by Joseph Logan to **deny** the request of Barbara Kosacz et al because it has been pending a long time on the calendar and no one was there to proceed.

The motion carried by a vote of 4 – 1.

Richard Boren voted against the motion.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

NEW BUSINESS

Pfeiffer

A motion was made by Joseph Logan and seconded by Richard Boren to grant the request of Bernd E. and Donna M. Pfeiffer, whose property is located at 44 Seaside Dr., and further identified as Tax Assessor's Plat 14, Lot 136 for a variance from Article 3, Table 3-2 (District Dimensional Regulations) to construct an addition to an existing single family dwelling which will be 12 feet from the southerly lot line wherein 20 feet 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 R40 zone and contains 9450 +/- sq. ft.
2. The proposed addition will not increase the encroachment on the south side setback, which remains 12' from the lot line.

3. The south side is heavily screened by trees, which will remain, so visual impact on the south side is negligible.
4. The total coverage of the lot will be 14.8% where 25% is allowed.
5. Front, rear, and left side setbacks remain in compliance.
6. Addition to the south is the only structurally feasible direction.
7. Addition toward the rear is not possible due to 15 ft. minimum separation between septic and foundation.
8. No objectors spoke. One (abutter) neighbor spoke in favor.

The motion carried by a vote of 4 – 1.

Thomas Ginnerty voted against the motion.

Raymond Iannetta, Richard Boren, Joseph Logan, and David Nardolillo voted in favor of the motion.

Don Wineberg, Elizabeth Brazil, and Dean Wagner were not seated.

Buglio

A motion was made by Raymond Iannetta and seconded by Don Wineberg to grant the request of Benjamin & Carol Buglio, whose property is located at 13 Mizzen St., and further identified as Tax Assessor's Plat 15, Lot 236 for a special use permit from Article 3, Section 314 (High Ground Water Table and Impervious Layer Overlay District) to construct an addition to an existing dwelling.

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTIONS 600 and 602.

This motion is based on the following findings of fact:

1. Said property is located in a R40 zone and contains 14,400 sq. ft.
2. The application was submitted to and approved by the Planning Commission.
3. The proposed addition foundation does satisfy the 12" separation from groundwater level.
4. The subsurface foundation allows free passage of water through holes in the foundation.
5. Total impervious coverage will be reduced from 19% to 15% thereby reducing the amount of runoff to surrounding property.
6. The existing septic system does meet the requirements for a 3 bedroom home.
7. No one spoke in opposition to the request.
8. The granting of this request will not injure the appropriate use of the surrounding property.
9. The application meets all setback requirements.

The motion carried by a vote of 4 – 1.

Thomas Ginnerty voted against the motion.

Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

Baccala

A motion was made by Don Wineberg and seconded by Richard Boren to grant the request of James N. Baccala, whose property is located at 156 Seaside Dr., and further identified as Tax Assessor's Plat 5, Lot 157 for a variance from Article 3, Section 3-2 (District Dimensional Regulations) to construct an extension to an existing deck that will be 14' from northerly lot line wherein 20' 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 R40 zone and contains 7,192 sq. ft.
2. The deck would still be 14' from the end of the property line where 20' is required due to the house being on a corner lot.
3. Four neighbors spoke in favor of the project.

The motion carried by a vote of 4 – 1.

Thomas Ginnerty voted against the motion.

Don Wineberg, Raymond Iannetta, Richard Boren, and David Nardolillo voted in favor of the motion.

Elizabeth Brazil, and Dean Wagner were not seated.

Joseph Logan was recused.

Bingell

A motion was made by Thomas Ginnerty and seconded by Joseph Logan to **deny** the request of Alfred Bingell, whose property is located at 5 Fowler St., and further identified as Tax Assessor's

Plat 8, Lot 487 for a variance from Article 3, Section 3-2, (District Dimensional Regulations) to construct a new front porch & side stairs 16 ft. from the front lot line instead of the required 30 ft., 3'-4" from the left side lot line instead of the required 7 ft. and bringing the total coverage of the lot by building/structure to 38.4% instead of the required 30%.

Bingell cont.

This Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

In particular reference to ARTICLE 6, SECTIONS 606 & 607, PARAGRAPHS 3 & 4.

This motion is based on the following findings of fact:

1. Said property is located in a CL zone and contains 4,000 sq. ft.
2. The relief sought is not the least relief necessary and the relief if granted will impair the intent of the ordinance.
3. The setbacks are intended to provide space between dwellings and a safety area for emergency responses of public safety services.
4. The lot coverage is to protect from over development.
5. The 3'4" relief sought fails to comply with the aforementioned standards, as does the lot coverage relief sought.
6. As to the front relief sought, if the relief was granted it would push forward parking to 16 ft., an inadequate space for two vehicles and an attempt to overuse the property.
7. The applicant is not denied beneficial use of his property.

The motion did not carry by a vote of 1 – 4.

Thomas Ginnerty voted in favor of the motion.

Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted against the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

Bingell

A motion was made by Don Wineberg and seconded by Joseph Logan to grant the request of Alfred Bingell, whose property is located at 5 Fowler St., and further identified as Tax Assessor's Plat 8, Lot 487 for a variance from Article 3, Section 3-2, (District Dimensional Regulations) to construct a new front porch & side stairs 16 ft. from the front lot line instead of the required 30

Bingell cont.

ft., 3'-4" from the left side lot line instead of the required 7 ft. and bringing the total coverage of the lot by building/structure to 38.4% instead of the required 30%.

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 CL zone and contains 4,000 sq. ft.
2. The proposed design would enhance the appearance of the house and bring its front to approximately the same level as the neighbors.
3. The additional outside stairs increase safety by allowing egress away from mechanicals.
4. The requested relief is only for a deck and outside stairs, thereby bringing people out into the neighborhood without adding substantial mass to the streetscape.
5. The deck will be wood with stone bases.
6. The lot is so small there are no practical alternatives for adding deck or other space without additional zoning relief, thereby also justifying the lot coverage exception.

The motion carried by a vote of 4 – 1.

Thomas Ginnerty voted against the motion.

Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

Reves

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the application of Stamatis Reves to the next regular meeting at the request of their attorney.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

Bakhshi

A motion was made by Thomas Ginnerty and seconded by Richard Boren to grant the withdrawal without prejudice of Paula & Davey Bakhshi, as they need to complete the plans for the proposed new dwelling.

The motion carried by a vote of 5 – 0.

Thomas Ginnerty, Don Wineberg, Raymond Iannetta, Richard Boren, and Joseph Logan voted in favor of the motion.

David Nardolillo, Elizabeth Brazil, and Dean Wagner were not seated.

ADJOURNMENT

A motion was made and seconded to adjourn at 10:24 p.m.

The motion carried unanimously.