

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the November 28, 2006 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 7:05 p.m. The clerk called the roll and noted the following members present:

Don Wineberg
Richard Boren
Joseph Logan
David Nardolillo
Dean Wagner
Richard Cribb

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

MINUTES

Minutes of the October 24, 2006 meeting.

A motion was made by Don Wineberg and seconded by Richard Boren to accept the minutes of the October 24, 2006 meeting as presented.

The motion carried by a vote of 5 - 0.

Don Wineberg, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

CORRESPONDENCE

A letter from Robert Galvin requesting a one-year extension of a previously granted variance.

Galvin

A motion was made by Don Wineberg and seconded by Richard Boren to grant the request of Robert Galvin for a one-year extension of a previously granted variance for Plat 3, Lot 14.

The motion carried by a vote of 5 - 0.

Don Wineberg, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

A letter from Julia Gerald on behalf of the Musumecis requesting a continuance of their application to the December 19, 2006 meeting.

Mesumeci

A motion was made by Don Wineberg and seconded by Joseph Logan to grant the request of the Musumecis to continue their application to the December 19, 2006 meeting.

The motion carried by a vote of 5 - 0.

Don Wineberg, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

NEW BUSINESS

Elaine Enterprises

A motion was made by Richard Boren and seconded by Joseph Logan to grant the request of Elaine Enterprises Inc., whose property is located at Prospect Ave. & North Main Rd., and further identified as Tax Assessor's Plat 1, Lots 52 & 53 for a Variance and Special Use Permit from Article 3, Section 82-314, High Ground Water Table and Impervious Layer Overlay District, and Article 3, Table 3-2, to construct a 26 ft. x 36 ft. 2 bedroom single family residence

on a nonconforming lot in a High Ground Water Table and Impervious Layer Overlay District with less than the required lot size and yard set backs.

Regarding this request, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600

Regarding the request for a Variance, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 606, PARAGRAPHS 1 through 4, and SECTION 607, PARAGRAPH 2.

Regarding the request for a Special Use Permit, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 602.

This Variance is granted with the following restrictions: (1) that all appeals to Superior Court from the denial of the previous application shall be withdrawn and dismissed with prejudice upon the appeal period passing from this decision without a further appeal, and (2) the proposed structure will be built in substantial conformance with the plans submitted with this application.

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 15,338 sq. ft.
2. The Planning Commission has provided a positive recommendation for a 2-bedroom house.
3. The doctrine of administrative finality is not applicable.
4. The plan has been reduced from 3 bedrooms to 2 bedrooms as the Zoning Board recommended previously.
5. The plans have been modified from the previous plan to require less relief.
6. The Town Engineer has positively commented in regard to subsurface structures, ISDS system and storm water management.
7. All run off will pass into the depression.
8. The lot is larger than most lots in the area.
9. The swales are approximately 1 foot deep and should drain within 12 hours.
10. The swales are not meant to be ponds.
11. The new plan has met the concerns of the Zoning Board as set forth in the August 23, 2006 Decision.
12. The relief sought is the least relief required.

13. The 10/5/06 memo from Lisa Bryer, Town Planner states that she and the Town Engineer agree that the proposed changes further minimize the site impacts.

The motion carried by a vote of 4 - 1.

Don Wineberg voted against the motion.

Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

DiBiase

A motion was made by David Nardolillo and seconded by Joseph Logan to grant the request of Peter and Joseph DiBiase, whose property is located at Beach Ave. and Ferry St., and further identified as Tax Assessor's Plat 5, Lots 52 & 53 for a Special Use Permit from Article 3, Section 82-314 to construct a single family two bedroom home within the "High Groundwater Table and Impervious Layer Overlay District".

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

This motion is subject to the following conditions: (1) Approval is based on merge of lots 52 & 53, and (2) Approval is granted that the structure will be built in substantial conformance of plan submitted with application.

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. They have met all standards of the ordinance for High Groundwater Table and Impervious Layer Overlay District.
3. The proposal will not in any way affect or harm the health, safety of residents of Jamestown especially abutting property owners.
4. The DiBiase's have not only met the standards of the High Groundwater Table and Impervious Layer Overlay District, but have presented a plan which could be used for future

developments. They have gone well beyond the spirit of the ordinance.

5. They have received recommendation for approval from Planning and satisfy Town Environmental Engineering requirements.
6. The DiBiase's have also included an agreement to sell Lot 67 Plat 15 to the Town for the amount of \$50,000.00.

The motion carried by a vote of 5 - 0.

Don Wineberg, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

Lilly

A motion was made by Joseph Logan and seconded by Dean Wagner to the request of Daniel E. Lilly, Jr. & Jean T. Lilly as Trustees of the Daniel E. Lilly, Jr. and Jean T. Lilly Joint Living Trust, whose property is located at 132 Beach Ave., and further identified as Tax Assessor's Plat 5, Lot 205 for a variance from Article 3, Section 82-308 (Setback from Freshwater Wetlands) and a special use permit from 82-314 (High Groundwater Table and Impervious Layer Overlay District) to raze an existing dwelling and replace this structure with a new dwelling, and to replace the existing septic system with a new advanced treatment septic system which will be 130' from a wetland wherein 150' is required.

Regarding this request, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600

Regarding the request for a Variance, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 606, PARAGRAPHS 1 through 4, and SECTION 607, PARAGRAPH 2.

Regarding the request for a Special Use Permit, this Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 602.

This Variance is granted with the restriction that the building will be built in substantial conformity with the plans submitted with the application.

This motion is based on the following findings of fact:

1. Said property is located in a R40 zone and contains 21,600 sq. ft.
2. There is no way to satisfy the wetlands setback due to the dimensions of the existing legal non-conforming lot.
3. The existing dwelling is in poor condition and the existing septic system has failed and must be replaced.
4. The plan is the least relief necessary.
5. DEM has approved the ISDS plan and granted relief from the Dem wetland setback requirement.

The motion carried by a vote of 5 - 0.

Don Wineberg, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb was not seated and Thomas Ginnerty and Raymond Iannetta were absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 9:21 p.m.

The motion carried unanimously.