

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the March 27, 2007 Meeting

PLANNING BOARD OF APPEAL

A meeting of the Zoning Board of Review sitting as the Planning Board of Appeal 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
Don Wineberg
Richard Boren
Joseph Logan
David Nardolillo
Richard Cribb
Richard Allphin

Also present: Brenda Hanna, Stenographer
Pat Westall, Zoning Clerk
Fred Brown, Zoning Officer
Wyatt Brochu, Counsel
Lisa Bryer, Town Planner
Gary Girard, Chair of Planning Commission
Richard Ventrone, Member of Planning Commission

Appeal of Roger & Maryjane Lavallee

Kenneth Littman, Esq. was prepared to go forward with the appeal, however James Donnelly, Esq. wanted a continuance. It was decided that they should discuss it and then let the Board know their decision.

Adjournment

ZONING BOARD OF REVIEW

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

Thomas Ginnerty
Don Wineberg
Richard Boren
Joseph Logan
David Nardolillo
Richard Cribb
Richard Allphin

Also present: Brenda Hanna, Stenographer
Pat Westall, Zoning Clerk
Fred Brown, Zoning Officer
Wyatt Brochu, Counsel
Lisa Bryer, Town Planner
Gary Girard, Chair of Planning Commission
Richard Ventrone, Member of Planning Commission

MINUTES

Minutes of the February 27, 2007 meeting.

A motion was made by Thomas Ginnerty and seconded by Richard Boren to accept the minutes of the February 27, 2007 meeting as presented.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

CORRESPONDENCE

A letter from Charles & Gail Sheahan requesting a continuance of their zoning application.

Sheahan

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the Sheahan application to the April 24, 2007 meeting at the request of the applicant.
The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

A letter from John A. Murphy, Esq. requesting that the Randall application be continued to the April 24, 2007 meeting.

Randall

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the Randall application to the April 24, 2007 meeting at the request of the applicant.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

A letter from Robert Cournoyer requesting a continuance of the Baron application.

Baron

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the Baron application to the April 24, 2007 meeting at the request of the applicant.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

OLD BUSINESS

Kilroy

Testimony was made on the application.

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to adjourn as the Zoning Board of Review and reconvene as the Planning Board of Appeal.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

Planning Board OF APPEAL

Lavallee

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the Lavallee appeal to the April 24, 2007 meeting.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Dean Wagner was absent.

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to adjourn as the Planning Board of Appeal and reconvene as the Zoning Board of Review.

ZONING BOARD OF REVIEW

The clerk called the roll and noted the following members present:

Thomas Ginnerty
Richard Boren
Joseph Logan
David Nardolillo
Richard Cribb
Richard Allphin

Also present: Brenda Hanna, Stenographer
Pat Westall, Zoning Clerk
Fred Brown, Zoning Officer
Wyatt Brochu, Counsel
Lisa Bryer, Town Planner
Gary Girard, Chair of Planning Commission
Richard Ventrone, Member of Planning Commission

Perrotti

A motion was made by Thomas Ginnerty and seconded by Richard Cribb to continue the application of John Perrotti to the April 24, 2007 meeting.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Richard Cribb voted in favor of the motion.

Richard Allphin was not seated and Don Wineberg and Dean Wagner were absent.

Eastern Resorts

A motion was made by Thomas Ginnerty and seconded by Richard Cribb to continue the application of Eastern Resorts to the April 24, 2007 meeting.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Richard Cribb voted in favor of the motion.

Richard Allphin was not seated and Don Wineberg and Dean Wagner were absent.

Brasil

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the application of Mark Brasil to the April 24, 2007 meeting.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Richard Cribb voted in favor of the motion.

Richard Allphin was not seated and Don Wineberg and Dean Wagner were absent.

McIntyre

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the application of J. Patrick McIntyre to the April 24, 2007 meeting.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Richard Cribb voted in favor of the motion.

Richard Allphin was not seated and Don Wineberg and Dean Wagner were absent.

Kilroy

After testimony was completed at the public hearing for which due notice was given and a record kept, the Town of Jamestown Zoning Board of Review, after taking into consideration all of the testimony and exhibits at the public hearing, makes the following findings:

1. The subject property is identified as Tax Assessor's Plat 9, Lot 352, containing approximately 6,370 sq. feet, more or less, and is located in a R-40 zone.
2. A substantial portion of the property is below the mean high water mark.

3. Based upon the testimony of the Applicant's Architect, who testified that although the proposed preliminary plans and the proposed dwelling are consistent with the character of the neighborhood the proposed dwelling could be smaller and is not the least relief necessary, the Board finds that the Applicant has not met his burden that he is requesting the least relief necessary.
4. Based upon testimony presented and the Board members knowledge of the area, the application is inconsistent with the environmental compatibility and safeguards to protect the natural environment.
5. This property is a unique, fragile and erosion prone coastal area. The application made to the Zoning Board includes a Preliminary Determination by Coastal Resources Management Council Staff Engineer Kenneth W. Anderson. In that letter, dated August 23, 2006, he states in part: "It is further noted that the plan topography does not accurately represent the near vertical, erosive coastal bluff present at the site.. Considering the irregular geometry of the parcel, lack of available upland area and depth, and the dynamic erosion action on going, CRMC staff reiterates its previous preliminary assessment conclusion, that is, that development of the site is inconsistent with many elements of the RI Coastal Resources Management Program." Objecting abutters spoke attesting to the ongoing erosion at this site, and also the need to preserve its scenic beauty. The Jamestown Comprehensive Community Plan, adopted 2002, in the section titled Natural Resources beginning at page 85, states as a community goal: "To preserve and protect unique, fragile, and scenic coastal areas.
6. As shown on plans submitted there exists a 24" diameter drainpipe running through the property directly underneath the proposed dwelling. The jurisdiction having authority, which would consider the impact of having a dwelling placed above this pipe, is the State of Rhode Island, Department of Transportation. Testimony revealed no permission has been granted by said agency, therefore the applicant has failed to provide satisfactory provisions or arrangements concerning this utility as required by the Jamestown Zoning Ordinance at Article 6, Sec-82-600, D.
7. At 15 feet in depth, the Board finds that the parking area shown on plans submitted by the Applicant would necessitate a motor vehicle backing out onto Conanicus Avenue in an area of a sharp curve in the roadway and at the bottom of a hill. Several neighborhood residents testified that this blind curve intersection has been the site of many close

calls, near misses and "screeching tires" during the busy summer months. Based on the testimony of the neighborhood residents and the Board members personal knowledge of the area, the Board finds that the parking and ingress and egress plan submitted by the Applicant does not provide satisfactory provisions and arrangements as is required under Article 6, Section 82-600 A, "Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency, or other catastrophe;" Additionally, as Conanicus Avenue is a state road, the Board understands the Applicant would need a Rhode Island Department of Transportation approval to allow use of the existing curb cut for a single-family dwelling, and the Applicant has not presented evidence that it has secured that approval.

8. The architectural and site plans submitted do not show a set of stairs to access the proposed dwelling, although they do show a difference in elevation of 5 feet from the proposed porch to the existing grade. The Board finds that installation of stairs are required to access the proposed dwelling. Therefore, the applicant has not provided satisfactory provisions and arrangements as is required under Article 6, Section 82-600 A, as stated above.

The Zoning Board of Review applied these findings to the standards of review for the granting of the request relief, and based on the foregoing, a motion was made by Richard Boren and seconded by Thomas Ginnerty to **deny** the request of the Applicant. 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 600, PARAGRAPH (a) (I), particularly 600 I, which requires environmental compatibility and safeguards to protect the natural environment.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Richard Cribb voted in favor of the motion.

Don Wineberg and Dean Wagner were absent.

Richard Allphin recused himself.

ADJOURNMENT

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

The motion carried unanimously.