

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the April 24, 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 7:04 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty  
Don Wineberg  
Joseph Logan  
David Nardolillo  
Dean Wagner  
Richard Cribb  
Richard Allphin

Also present: Brenda Hanna, Stenographer  
Pat Westall, Zoning Clerk  
Fred Brown, Zoning Officer  
Wyatt Brochu, Counsel

Appeal of Roger & Maryjane Lavallee

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 Appeal, after taking into consideration all of the testimony and exhibits at the public hearing, makes the following findings:

The standard of review to be applied is located in RI Laws Sec. 45-23-70.

The Planning Board of Appeal shall not substitute its own judgment for that of the Planning Board.

We must consider the issue upon the findings and record of the Planning Board.

The Board of Appeal shall not reverse a decision of the Planning Board except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record.

Lavallees assert:

That granting the waiver by the Planning Board was procedurally in error because the Furtados made no demonstration of hardship. The decision of the Planning Commission clearly states that the Planning Commission based it's granting on Art. VII, Para. A of the Subdivision Regulations.

The Zoning Board of Appeal applied these findings to the standards of review for the granting of the appeal, and based on the foregoing, a motion was made by Thomas Ginnerty and seconded by Don Wineberg to **deny** the appeal of the decision of the Town of Jamestown Planning Board dated Oct. 11, 2006 granting the application of Evelyn F. Furtado for a two lot subdivision with waivers for a private roadway, Plat 8, Lots 318 & 753. Roger and Maryjane Lavallee, appellants, 20 Luther Street.

The motion carried by a vote of 5 - 0.

Thomas Ginnerty, Don Wineberg, Joseph Logan, Dean Wagner, and Richard Allphin voted in favor of the motion.

David Nardolillo and Richard Cribb were not seated and Richard Boren was absent.

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to close the meeting of the Planning Board of Appeal.

The motion carried unanimously.

Adjournment 7:50 p.m.

**ZONING BOARD OF REVIEW**

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 7:51 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty  
Don Wineberg  
Joseph Logan  
David Nardolillo  
Dean Wagner  
Richard Cribb  
Richard Allphin

Also present: Brenda Hanna, Stenographer  
Pat Westall, Zoning Clerk  
Fred Brown, Zoning Officer  
Wyatt Brochu, Counsel

#### CORRESPONDENCE

##### Baker/Kneib

A letter from Christopher Behan, Esq. requesting to continue the appeal of Mark Baker & Elizabeth Kneib to the May meeting.

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the appeal of Mark Baker and Elizabeth Kneib to the May 22, 2007 meeting

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

##### Randall

A letter from John A. Murphy, Esq. requesting to continue the application of Allan & Nancy Randall to the June 26, 2007 meeting. A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the application of Allan and Nancy Randall to the June

26, 2007 meeting.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

#### Eastern Resorts

A letter from Quentin Anthony, Esq. requesting to continue the application of Eastern Resorts to the May meeting.

A motion was made by Thomas Ginnerty and seconded by Joseph Logan to continue the application of Eastern Resorts to the May 22, 2007 meeting.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

#### Smith

A letter from John A. Murphy, Esq. requesting to continue the application of Beth Smith to the June 26, 2007 meeting.

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the application of Beth Smith to the June 26, 2007 meeting.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

#### OLD BUSINESS

Sheahan

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:

Said property is located in a CL zone and contains 23,800 sq. ft. Although the parties requested that the Board mandate a two-foot deep clay or other water resistant soil barrier, due to the fact that the plans as approved will only improve existing site conditions, the Board declines to mandate such a barrier, but does not preclude the applicant from building one.

There was strong community support for creating the senior day care programs to be offered at the center.

The Applicant shall plant 3" caliper trees eight feet apart between the parking area and the rear of the property.

The neighbor on the north supported the application and the neighbor on the south did not object when the applicant's engineer stated that the drainage plan proposed would not adversely affect the neighbor's drainage.

The neighbor to the west would have objected but for the planting of trees and the applicant's agreement to request the 2-foot clay buffer wall.

The Zoning Board of Review applied these findings to the standards of review for the granting of the requested relief, and based on the foregoing, a motion was made by Don Wineberg and seconded by Dean Wagner to grant the request of Charles A. Sheahan, Sheahan Way LLC, whose property is located at 49 North Rd., and further identified as Tax Assessor's Plat 8, Lot 442 for Special Use Permits under Article 3, Sections I. 10 and VII. A.8. Mixed Use and Day Care Center, and Variances from Article 3, District Dimensional Regulations, to construct an adult day care facility with office facilities and a residential apartment, with less than the required front and side setbacks.

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

Regarding the request for Variances, 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 Special Use Permits, this Board has

determined that this application does satisfy the requirements of ARTICLE 6, SECTION 602.

This variance and special use permit is granted with the following restrictions:

The exterior siding must be natural cedar shingles and not the vinyl siding specified in the application. This project must be constructed in strict accordance with the site and building plans duly approved by this Board. This approval is subject to obtaining all State wetlands approvals required by applicable law and regulations. The front building may not be used as residential space without further approval of this Board.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

#### Perrotti

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:

Said property is located in a R40 zone and contains 14,400 sq. ft. This application meets all setback requirements. Testimony of experts showed that there would be a net decrease in runoff post development, as a result of the drainage plan. Impervious cover is 11.7%, less than the maximum of 12% but typical of the neighborhood. The Town engineer reviewed and approved of the engineering plan. Three neighbors spoke in opposition, based on fears of possible drainage problems. The proposal uses an advanced septic system design recommended by DEM. The applicant has merged two small lots to more closely conform to the R40 requirement.

The Zoning Board of Review applied these findings to the standards of review for the granting of the requested relief, and based on the foregoing, a motion was made by Joseph Logan to grant the request of John J. Perrotti, whose property is located at Ship St., and further identified as Tax Assessor's Plat 15, Lots 73 & 74 for a Special Use from Article 3, Section 82-314 (c) (High Groundwater/Impervious Layer Overlay District) to install a 3 bed septic, private well, single-family home with 2 car attached garage and pervious driveway.

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

Thomas Ginnerty seconded the motion.

The motion did not carry by a vote of 2 - 3.

Joseph Logan, and Richard Allphin voted in favor of the motion.

Thomas Ginnerty, David Nardolillo, and Richard Cribb voted against the motion.

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

#### NEW BUSINESS

##### McIntyre

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. Said property is located in a R20 zone and contains 15,000 sq. ft.
2. The Zoning Board of Review approved the same application on June 4, 2002 with a vote of 4 - 1.
3. For personal reasons, the project could not be completed in a timely fashion, so reapplication is necessary.
4. There have been no requested additions or subtractions from the original application.
5. The applicant stated that since the original application, 2 more neighbors support the application.
6. The original findings of fact are to be made a part of these

findings of fact.

The Zoning Board of Review applied these findings to the standards of review for the granting of the requested relief, and based on the foregoing, a motion was made by David Nardolillo and seconded by Joseph Logan to grant the request of J. Patrick McIntyre Jr., whose property is located at 27 Bryer Ave., and further identified as Tax Assessor's Plat 8, Lot 215 for a variance from Article 3, Section 302, (District Dimensional Regulations) and Article 7, Section 705 (Alteration of a Nonconforming Structure) to construct a 12'-0" x 24'-0" attached garage and make other alterations to a 7'-0" x 12'-0" section of existing porch which is non conforming. The new garage will be five ft. from the property line on the west side instead of 10'-0" and 17'-4" from the property line on the north side instead of 30'-0".

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

This Variance is granted with the restriction that this project must be constructed in strict accordance with the site and building plans duly approved by this Board.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

### Baron

A motion was made by Thomas Ginnerty and seconded by Don Wineberg to continue the application of Rosemary C. Baron to the May 22, 2007 meeting.

The motion carried by a vote of 5 - 0.

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

Richard Cribb and Richard Allphin were not seated and Richard Boren was absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 11:10 p.m.

The motion carried unanimously.