

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the June 26, 2007 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 7:07 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty  
Richard Boren  
David Nardolillo  
Dean Wagner  
Richard Cribb  
Richard Allphin

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

MINUTES

Minutes of the May 22, 2007 meeting.

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to accept the minutes of the May 22, 2007 meeting as presented.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

CORRESPONDENCE

A letter from Robert & Jane Mead requesting a one year extension of a previously granted special use permit.

It was decided it should be put on the agenda for July.

Correspondence cont.

A letter from John A. Murphy, Esq. requesting a continuance of the Allan & Nancy Randall application to the August meeting.

A letter from Donald J. Packer, Esq. requesting to continue Windridge Properties to the next meeting.

Quentin Anthony, Esq. requested that Fernwood Building be continued to the next meeting.

Randall

A motion was made by Thomas Ginnerty and seconded by Richard Boren to continue the request of Allan & Nancy Randall to the August 28, 2007 meeting at their request.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

Windridge Properties

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to continue the request of Windridge Properties to the July 31, 2007 meeting at their request.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

Fernwood Builders

A motion was made by Thomas Ginnerty and seconded by Richard Boren to continue the request of Fernwood Builders to the July 31, 2007 meeting at their request.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

OLD BUSINESS

Baker/Kneib

A motion was made by Richard Boren and seconded by Dean Wagner to proceed with the Baker/Kneib request and start anew due to lack of quorum of the members that heard it previously.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

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 determination:

A motion was made by Thomas Ginnerty and seconded by Dean Wagner to DENY the appeal of Mark Baker and Elizabeth Kneib, whose property is located at 2 Baldwin Court, and further identified as Tax Assessor's Plat 9, Lot 453 pursuant to Article 5, Section 503 to appeal Building Permit B06-828 issued on 12/19/2006 to Doris R. Arthur to construct a single-family home on Plat 9, Lot 537, 6 Baldwin Court. Said property is located in a R8 zone and contains 3,997.71 sq. ft.

Baker/Kneib cont.

Two issues were raised on appeal.

1. That the appellants asserted a boundary dispute. This Board has determined that it does not have jurisdiction to adjudicate property boundary disputes.
2. That the appellant asserts that an administrative subdivision in 2005 added approximately 997 sq. ft. of land to the Arthur property, said 997 acquired from an abutting neighbor, takes the Arthur property out of the definition of a pre-existing nonconforming lot. This Board disagrees.

The so-called 997 piece of land was not a deeded lot but rather a section of land belonging to a neighbor.

The Jamestown code, 982.103 (65) defines a lot:

- (1) The basic development unit for determination of lot area, depth, and other dimensional regulations; or
- (2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

Hence this Board concludes that the 2005 administrative subdivision, which added the 997 sq. ft. to the Arthur lot, does not change the nature of the Arthur lot from a pre-existing nonconforming lot.

Accordingly, the appeal is denied.

The motion carried by a vote of 4 - 1.

Richard Boren made a motion for reversal of the Zoning Officer's decision, but there was not a second.

Richard Boren voted against the motion.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

NEW BUSINESS

Brasil

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 determination:

A motion was made by Dean Wagner and seconded by Richard Cribb to grant the request of Mark E. Brasil, whose property is located on Court St., and further identified as Tax Assessor's Plat 2, Lot 6 for a variance from Article 3, Section 82-302 to construct a single-family residence (16' x 20') with a left and right side yard setback of 17' (30' being required, 13' of relief sought), and 50' frontage on Court Street, a so called paper road (200' of frontage on an accepted street required, 150' of relief sought).

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

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

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 5,000 sq. ft.
2. The relief to be granted is the least relief necessary. The proposed house will be 16' x 20' and is 50% smaller than the proposed in a prior application.
3. The destruction of the applicant's house occurred under circumstances beyond his control. The hardship that the destruction created was in no manner caused by him.
4. The granting of the variances will not alter the general character of the surrounding area or impair the intent or purpose of the Ordinance or the Comprehensive Plan.
5. No one spoke in opposition to the application.
6. If the dimensional variances are not granted, the hardship that will be suffered by the owner shall amount to more than a mere inconvenience.

The motion carried by a vote of 5 - 0.

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

Brasil cont.

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

Eastern Resorts

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 determination:

A motion was made by Richard Cribb and seconded by Richard Boren to grant the request of Eastern Resorts Co. LLC whose property is located at 150 Conanicus Ave., and further identified as Tax Assessor's Plat 8, Lot 258 for a variance from Article 7, Section 703, 704 to construct a new porch at 12' 10 ½ " from Bay View Dr.

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 following restriction/condition(s):

1. The dumpsters will be moved inside the property line.
2. No portion of the deck or gazebo will be enclosed.
3. No outdoor music after 10 p.m.

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

This motion is based on the following findings of fact:

1. Said property is located in a R20 zone and contains 49, 652 sq. ft.
2. There were no abutters against the proposal and one in favor with some reservations.
3. The renovations will have no effect on the health, morals, and welfare to residents and citizens of the Town of Jamestown or the general character of the surrounding area.

Eastern Resorts cont.

4. The Planning Board unanimously recommended approval of this application.
5. The applicant has withdrawn the request for a new sign.

The motion carried by a vote of 4 - 1.

Thomas Ginnerty voted against the motion.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

Smith

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 determination:

A motion was made by David Nardolillo and seconded by Thomas Ginnerty to DENY the request of Beth Smith, whose property is located at 86 Orient Ave., and further identified as Tax Assessor's Plat 1, Lot 320 for a Special Use Permit under Article 3, Section 314 (High Ground Water/Impervious Layer Overlay District) to permit the construction of a single-family residence, and also a Dimension Variance under Article 3, Table 3-2 to allow said dwelling to be 30.3' from the front lot line (40' being the requirement) and 17.6' from the northerly side lot line, and 17.3' from the southerly side lot line (30' being the requirement).

Regarding this request, this Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 600

Regarding the request for a Variance, this Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 606, PARAGRAPHS 1 through 4, and SECTION 607, PARAGRAPH 2.

Smith cont.

Regarding the request for a Special Use Permit, this Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 602.

In particular reference to ARTICLE 6, SECTION 606, PARAGRAPH 4.

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 24,275 sq. ft.
2. The house plans do not reflect the least amount of relief required.
3. There is ample opportunity in the plans to further reduce the size of the structure reducing the amount of relief required.
4. The deck on the southern part of the structure could be removed to further reduce infringement in the set back.
5. There is no opposition to this special use permit under Article 3, Section 314 (High Ground Water/Impervious Layer Overlay District).

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

Richard Boren and Dean Wagner voted against the motion.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

Piccoli

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 determination:

Piccoli cont.

A motion was made by Richard Boren and seconded by Dean Wagner to grant the request of David & Gilda Piccoli, whose property is located at 584 E. Shore Rd., and further identified as Tax Assessor's Plat 2, Lot 84 for a Variance from Article 3, Table 3-2, District Dimensional Regulations, to rebuild and expand an existing accessory building which is 5 feet from the northerly lot line, 20 feet being the 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 Variance is granted with the following restriction/condition(s):

1. This project must be constructed in strict accordance with the site and building plans duly approved by this Board.
2. The accessory structure be of the same exterior materials as the main house.
3. There shall be no inside plumbing or kitchen facilities.

This motion is based on the following findings of fact:

1. Said property is located in a RR80 zone and contains 61,820 sq. ft.
2. There is presently existing on the property an accessory building in need of extensive repairs.
3. This accessory building pre-dates the zoning ordinance and is 5 feet from the property line, where 20 feet is required.
4. The present accessory building houses garden and yard equipment.
5. The proposed structure will be no closer to the boundary line than the existing structure except for that the 10 foot length increase will also be 5 feet from the property line.
6. The new structure cannot reasonably be placed in any other location because of the leaching system and the driveway.
7. No one spoke in objection to the application.

The motion carried by a vote of 5 - 0.

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

Richard Allphin was not seated and Don Wineberg and Joseph Logan were absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 10:30 p.m.

The motion carried unanimously.