

Approved as written
PLANNING COMMISSION MINUTES
July 6, 2022
7:00 PM
Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 7:00pm and the following members were present:

Mike Swistak – Chair	Duncan Pendlebury – Vice Chair
Mick Cochran	Rosemary Enright – Secretary
Diane Harrison	Bernie Pfeiffer
Dana Prestigiacomio	

Also Present:

Lisa Bryer, AICP – Town Planner
Carrie Kolb, Planning Assistant
Wyatt Brochu, Esq – Town Solicitor
Jeff Davis, Horsley Witten
Christian Infantolino, Esq – Morneau & Murphy
Patrick Freeman, PE – American Engineering
Laura Carlson – Good Graces Grooming
Bob Plain
Job Toll
Don Carlson

II. Citizen’s Non-Agenda Item - none

III. Old Business

1. Jamestown Zoning Ordinance update - review, discussion and/or action and/or vote
 - A. Legal Review from Ursillo, Teitz & Ritch, Ltd. with Jeff Davis, Horsley Witten Group

Jeff Davis refreshed the Commission on the timeline of zoning ordinance update project. He was at the meeting to find out what questions and concerns the commissioners have, and discuss what issues the commission thinks that the public will have? Davis raised the following questions: How to get engagement from the public? Does it make sense to have listening sessions, focus groups or informal open houses?

The original plan had a website that was not live yet, and one-page information guides had been in development. Marketing pieces can be made for the public when topics are decided. The zoning ordinance review kicked off in late 2017.

Horsley Witten was hired to: update the use table; definitions; signage; parking. A cluster of housing related items: multi-family dwellings; accessory family dwelling units; bed and breakfast homes; conservation development; low and -moderate income (LMI) housing; and cottages. The environmental items to be looked at: RR200 districts; high ground water and impervious districts; farm related retail uses – the Planning Commission decided against looking into; and aquaculture and land-based impacts. For miscellaneous: draft a new section on solar and wind; create more thorough standards for lighting and accessory structures; news rack regulations and temporary pop-up uses – the Planning Commission decided to not address this issue in zoning but in permitting. Restructure the entire zoning ordinance to make more readable and easier for the public to use.

In October 2019 the first full draft of revisions was sent to the Planning Commission. Over the course of discussions, additional items included hens/chickens and communications towers. In January 2020, they came up with revised draft. Then there was a year and a half pause due to legal review and covid. Bryer got back in touch with Davis and Ursillo, Teitz & Ritch (UTR) law firm was hired to review the legality of the current ordinances and proposed ordinances. UTR wrote two memos and thought the proposed ordinances were in good shape. However, there are still two big issue items based on legislative changes: accessory dwelling units (ADUs) and recreation marijuana.

There have been significant changes to the ADUs section of the ordinance. ADUs were addressed previously in two segments, now family and LMI, have now been combined. However, the legislature passed a law, that has not been adopted yet, that will change everything. The new law provides a single definition of an ADU. It requires municipalities to allow ADUs for any family member by right. The language then gets unclear, as it has a long new list of performance standards but says that they only apply if a municipality allows to have ADUs. Horsley Witten, UTR and town solicitors will all work together to legally clarify this section.

Horsley Witten is working on a memo regarding recreational marijuana. It will explain what municipalities can and cannot do, what the legal opportunities are, and what policy decisions can be. This will be a new section.

Davis has updated the readers guide and table of contents comparisons, which summarize where the major changes have been.

Commissioner Swistak stated that the Planning Commission will look at unresolved items. They will review the changes that were made a few years ago. They concluded two weeks ago that they don't need to pull things apart again and review everything.

Bryer explained the procedure. Planning Commission writes the ordinance and they hold a meeting, workshop or separate workshop on them and make a recommendation to the Town

council. Then the ordinance and recommendation get sent to the Town Council. Town Council holds a hearing and adopts the ordinance. The Zoning Board enforces the ordinance.

Davis noted that there has been a major change in the setbacks for freshwater wetlands. State's rules and regulations went into effect on July 1, 2022. Anyone who applied prior to July 1, 2022 is still regulated by the Town ordinance. Anyone applying on or after July 1, 2022 must abide by State Law.

Commissioner Swistak brought up another issue to address is oversized houses on small lots. Bryer noted that other towns are regulating by floor area ratio, not lot coverage. The coverage in Jamestown is lenient, and that is how gigantic houses get built on small lots.

Davis asked about public engagement and what do you think will be most debated? What issues should we get in front of? Commissioner Swistak stated ADUs, as they are the most common application. Discussion ensued. Bryer stated that the Affordable Housing Committee is discussing the new law. The ADUs also tie into the Short-Term Rental ordinance. Council, as currently drafted, short-term rentals are not allowed in ADUs. Davis stated that you have to follow the State law, which is generally reasonable. There may be some communities will not allow ADUs for non-family members.

Bryer stated that chickens were a lively topic years ago and you never know what topic will pop up. She thinks that cell towers, solar and wind. Commissioner Swistak agrees with the solar topic. Bryer explains that the town does not have any ordinances against ground mounted solar. The building official says the panel is a structure that has meet the setbacks and cannot produce more energy than the house uses. Those are the only standards that are being used now. Davis asked if there are any applications over the years? Bryer stated she thinks the first ground mounted solar request came in this year.

Davis will work on one-page information sheets on ADUs, cell towers, solar and wind. The chicken ordinance addressed chickens, 6 chickens or less but no roosters on one acre or less. It needs to change to allow chickens on any size lot, and that change will be made.

Commissioner Swistak stated on the topic of marijuana the ordinance is to prohibit it all. Commissioner Enright stated it was because medical and recreational couldn't be separated. Bryer stated that the Town Council is looking into this.

Davis raised the question on public feedback. Should a workshop or open house be held? Will people use the website? Commissioner Pfeiffer stated that having a website will save a lot of paper. Commissioner Pendlebury doesn't think that people will use a website. Commissioner Swistak stated that the sustainable Jamestown website doesn't get much traffic anymore. Davis stated that if the website is not useful then we can pull the plug. The website is already built but it has never been live. Commissioner Swistak stated that public participation was small the last time. Davis stated that we can plan on one general workshop on all that is changing. Then, if needed, have another focus group on a specific topic; solar/wind as an example.

Commissioner Swistak asked if we can get the Jamestown Press to cover the information. Bryer stated that the separate website is a way to get all the information out. The information would be buried on the Town of Jamestown website. Commissioner Prestigiacomo stated that the information on the website is accurate. Commissioner Swistak asked if a half page ad could be run in Jamestown Press letting people know what changes are coming and directing them to the website for more information. Bryer said that an ad could be run.

The topics to have one-page information sheets on are: solar, wind, communication towers, ADUs, marijuana, oversized houses on small lots. Davis will work with Bryer on the schedule. Commissioner Prestigiacomo asked about the timing? Bryer stated that September is a good time as so many people are not available in August.

IV. New Business

1. High Groundwater Table and Impervious Overlay District Sub-district A, Lot 469 Sloop, LLC: AP 3, Lot 469; Sloop Street, Jamestown, RI - review, discussion and/or action and/or vote

Christian Infantolino with Morneau & Murphy is representing the applicant. Infantolino stated that plat and lot are in high groundwater table and impervious overlay district sub-district A. The applicant will construct a 3-bedroom dwelling. Infantolino stated that Patrick Freeman, PE with American Engineering will present the site plans.

Commissioner Swistak moved to accept Patrick Freeman, PE with American Engineering as an expert witness, seconded by Commissioner Pfeiffer. All in favor.

Freeman stated that there are no wetland areas on the land. The results of the soil evaluations put the lot in Subdistrict A. Freeman described the square footage for the house, porch, and patio. He clarified the architects plan showed 1,438 sq ft for the roof area. The correct amount is 1,329 which is the difference for the 12-inch overhang on the house. The plans show a private well, OWTS, pervious crushed stone driveways and two rain gardens for stormwater runoff.

Commissioner Pendlebury asked why sand filters angled like that on the plans? Freeman replied that it was due to set backs

Commissioner Pendlebury asked what the conditions of approval on the DEM report are because they are illegible in the photocopy. Freeman stated the conditions are: no large tubs and no garbage disposals.

A motion moved by Commissioner Swistak and seconded by Commissioner Enright as follows;

At the July 6, 2022 Planning Commission meeting, the Planning Commission voted unanimously to recommend to the Jamestown Zoning Board, approval of the application of 469 Sloop LLC, applicant: AP 3 Lot 469, Pole #3 Sloop Street, Jamestown, RI; being reviewed under Zoning Ordinance Section 314 - High Groundwater Table and Impervious Overlay District Sub-District A review in accordance with the plans entitled "Town Submission for Lot 469 Sloop, LLC., Located at AP 3 Lot 469, Pole #3 Sloop Street, Jamestown RI" dated 5/25/22, and the supporting material prepared by American Engineering, Inc., 400 South County Trail – Suite A 201, Exeter, RI 02822, 401-294-4090.

The recommendation for approval is based on the following findings of facts and recommended conditions of approval as noted in the Memo from Jean Lambert, PE dated June 29, 2022 and amended at the Planning Commission meeting:

Findings of Fact Section 314

1. The property is 14,400 square feet (sf) in area;
2. The existing site is undeveloped;
3. Topography on the lot generally slopes to the north on the site towards Sloop Street;
4. There are no freshwater wetlands on the property;
5. Soil evaluation results show that the site falls under **Sub-district “A”** requirements of the High Groundwater Table and Impervious Overlay District with 18” to the seasonal high-water table and 22” to impervious soil;
6. The maximum impervious cover allowed is **10.0% or a maximum of 1440 sf**;
7. The applicant is proposing to develop the site with a house, crushed stone driveway, patio, well, and an advanced treatment OWTS (SeptiTech to bottomless sand filter: RIDEM #9515-3524). The OWTS permit for 3-bedrooms was issued on 4/6/2022;
8. The total proposed impervious cover will be **1329 sf or 9.2%**.
9. The architects plans show the roof area to be 1,438 sf which includes an allowable 12” overhang on the house;
10. Two rain gardens are proposed to provide water quality treatment and stormwater mitigation of new rooftop runoff. The required stormwater treatment volume for the new rooftop is 842 cubic feet (cf). The total proposed volume is 843 cf;
11. The Memo from Jean Lambert, P.E. states the rain garden provides treatment and mitigation for the new impervious area;
12. The applicant’s representative Patrick Freeman, PE of American Engineering, Inc, was accepted as an expert witness, and present at the Planning Commission meeting representing the application before the Planning Commission on July 6, 2022; and,
13. Jamestown Engineer Jean Lambert provided correspondence to William Moore, Building Official and Lisa Bryer, Town Planner dated June 29, 2022 regarding the application (attached).

Recommended Conditions of Approval

1. Erosion and sediment controls must be installed at the down gradient limits of site disturbance and maintained until stabilization of the site is attained;
2. After installation, Maintenance and inspection of the existing OWTS shall continue as required by the Town Onsite Wastewater Management Ordinance;
3. The rain gardens shown on the approved site plans must be installed and maintained as outlined on the notes on the approved site plan and the operation and maintenance plan. The Operation and Maintenance (O & M) Plan (reproduced in 8.5” x 11” for the stormwater mitigation (rain garden) shall be recorded in the Office of the Town Clerk with the Zoning Approval and evidence of such shall be provided to the Zoning Enforcement Officer as well as the Planning Department;

4. Any additional future site work including a change to the driveway surface that increases the area of impervious coverage will require a review following the requirements of the High Groundwater Ordinance.

So voted:

Commissioner Pendlebury - aye

Commissioner Cochran – aye

Commissioner Enright – aye

Commissioner Harrison – aye

Commissioner Pfeiffer – aye

Commissioner Prestigiacomio - aye

Commissioner Swistak – aye

Public Comment:

Bob Plain, 18 Calvert Place and Chair of the Affordable Housing Committee (AHC). The AHC gave the Planning Commission a letter regarding how ADUs can help with the crisis of the lack of economic diversity in Jamestown. Plain let the Planning Commission know that the Affordable Housing Committee is planning a field trip to the cottage clusters in East Greenwich and invited them to attend. Cottage Clusters are part of the solution to creating more affordable housing in Jamestown.

2. Zoning ordinance amendment related to Pet Grooming – review, discussion and/or action and/or vote - recommendation to Town Council

Bryer gave a background on how this is a Town initiated Zoning Ordinance amendment. If a use, like pet grooming, isn't specifically listed in the use table and there is not a similar use, the new use is assumed prohibited. Pet grooming was assumed prohibited by the Zoning Officer. The decision is at the Zoning Board for an appeal. In the meantime, the Town Council initiated a zone change to add pet grooming to the use table.

Bryer stated that there was a phone call for a meeting between Commissioner Swistak, Richard Boren (Zoning Board chair), Bill Moore (Zoning Official), Peter Ruggiero (Town Solicitor) and herself. The Zoning Board chair did some research and Bryer did some research. The Town allows things that are much more intrusive than pet grooming. For example, the Town allows hair salons without special use permit. Bed and Breakfasts have special use permit with conditions. The group worked on the definition of pet grooming which excluded kennels, dog walking and training. Since the meeting, Boren has agreed that he will support it.

Discussion ensued.

Commissioner Swistak was at the meeting and he thinks that special use permit is the appropriate way to go. This is a 10-to-20-year decision. Think about all the other places that come next. What if next groomer is next to daycare? Bryer pointed out that Jamestown has form-based zoning, that doesn't micromanage what is inside the building, and it allows for a free market system. Commissioner Cochran stated that the veterinarian is next to an outdoor restaurant.

Commissioner Cochran asked if the state board of health has any oversight in regulating pet grooming? Laura Carlson, applicant for Good Graces Grooming, replied no, not to date.

Commissioner Swistak stated that in the past there was a pet related shop next to a pizza shop. It started out as a pet supply store and then became more of a shelter, and there were complaints. Commissioner Swistak wants to ensure that zoning enforcement has the tools needed.

Bryer noted that there is a Public Hearing scheduled on August 22, 2022 by the Town Council to discuss the proposed ordinance change. A draft definition of pet grooming was created by the Town Solicitor as:

(178) *Pet Grooming*. An establishment where domestic pets, (dogs and cats), are groomed and washed and may include the ancillary sale of products related to the service, but does not include any associated kennel, overnight accommodations, obedience training, pet walking or pet food sales.

Laura Carlson gave a handout to the Planning Commission with a revised draft definition: *Pet Grooming*. An establishment where domestic pets, (dogs and cats, are groomed with a maximum of one grooming station for every 200 square feet of floor space and may include the ancillary sale of products related to the service and care of animals, but does not include any overnight boarding, obedience training, commercial pet food sales, or outdoor dog holding areas, (runs, cages or tie-outs).

Discussion ensued on minimum and maximum square footage. Carlson explained she included the one station per 200 square feet in the definition because it prevents overcrowding and she wanted to have a stronger definition so building/zoning has “teeth” to it when it comes to enforcement.

Discussion on special use permits ensued. Carlson stated that special use permits can be muddied in the waters depending on who is on the committee. Commissioner Swistak questioned Solicitor Brochu and Bryer if a business gets a special use permit if it can move to a new location. Solicitor Brochu stated the special use permit is by location. Bryer stated is a 60-day minimum to get on the zoning board and receive a special use permit for a new location because of the 3 week advertising period.

Public comment from Don Carlson 52 Newport Street, brother of Laura Carlson. Mr. Boren doesn't think he needs special use to regulate zoning based on the definition that the group put together. It's important to note that the definition itself can provide constraints. The issue for a level playing field comes up. Whenever you allow a special use permit it invites favoritism and bias, which he doesn't think happens in Jamestown. Special use permits are expensive. You have to pay for all the notices that go out, hire lawyers, you need to hire an expert to go before zoning, it's expensive and bureaucratic. It's been a real journey to find a place in Jamestown for grooming.

Commissioner Pfeiffer stated that he doesn't know if there will be issues in the future. This is a new item and the process is very intricate, yet at other times different issues get a “yeah go ahead”.

Commissioner Swistak asked what the process is for changing an ordinance from by right to

special use? Solicitor Brochu stated that the Town Council can always amend the ordinance to address change of circumstances in town. The current business is grandfathered in with the older version and a new business would need to run by the revised ordinance.

Commissioner Swistak raised the question, what if the pet food store wants to add grooming once it's a permitted use? Solicitor Brochu stated that he hesitates having "what if" discussions. Bryer stated that businesses can be mixed use by right, and as long as all the uses are permitted. The Fuller Gallery is an example where there is service and retail with the framing and selling art.

Commissioner Harrison asked about Carlson about walk-ins? What if is someone is walking their dog and wants to get a new collar? Carlson replied that there will be a big sign stating "by appointment only". Carlson further stated that she feels the business will come from Jamestown residents as people from Newport have more grooming options there.

A motion was moved by Commissioner Enright and seconded by Commissioner Pfeiffer to approve the Zoning Ordinance Amendment to allow the use of Pet Grooming, by right (Y) in the Commercial Limited (CL) and Commercial Downtown (CD) districts in the Jamestown Zoning Ordinance Use Table, Section 82-301.

So voted:

Commissioner Pendlebury - aye

Commissioner Cochran – aye

Commissioner Enright – aye

Commissioner Harrison – aye

Commissioner Pfeiffer – aye

Commissioner Prestigiacomo - aye

Commissioner Swistak - nay

Motion carries: 6-1

Solicitor Brochu recommended that if the Planning Commission chooses to offer proposed changes to the definition of pet grooming drafted by Solicitor Ruggiero that they do so and include some of the changes made by Carlson. Discussion ensued on Carlson's definition.

A motion was moved by Commissioner Swistak and seconded by Commissioner Pfeiffer to recommend to Town Council along with the recommended findings of fact and consistency with the Comprehensive Plan as noted in the Town Planners Draft Memo:

- 1) To allow the use of Pet Grooming, as defined, by right (Y) in the CL and CD Zoning Districts in the Jamestown Zoning Ordinance Use Table, Section 82-301 – 6 in favor, 1 opposed;
- 2) To consider amending the definition of Pet Grooming as provided to the Town Council on July 5, 2022 as follows:

(178) Pet Grooming. An establishment where domestic pets, (dogs and cats), are groomed with a maximum of one grooming station for every 200 square feet of floor space and may include the ancillary sale of products related to the service, but does not include any associated kennel, overnight accommodations, obedience training, pet walking, pet food sales or outdoor dog holding areas (runs, cages or tie-outs)

Unanimously voted.

V. Correspondence

1. Lois Migneault, Jamestown Invasive Plant Public Awareness Campaign “Jamestown Native Plants: Why Protect Them?”

Bryer stated that the Jamestown Invasive Plant Group is a passionate group they have done a great job providing guides on both native and invasive plants. Swistak asked if the Sustainable Jamestown document is on the town website? Bryer replied that a new version will be up once its approved.

VI. Reports

1. Planner’s Report –
 - Future meetings – topics and applications

The Town Council sent Short Term Rentals to a public hearing for discussion.

The ordinance of no dogs on beaches was stayed.

There are no agenda items of July 20, we will not have a meeting on that date.

VII. Approval of Minutes – review, discussion and/or action and/or vote

1. June 15, 2022

A motion was moved by Commissioner Enright and seconded by Commission Cochran to approve the minutes as amended. All in favor.

Page 4 – third paragraph – strike ~~Mike as we sit as~~

Approval of Minutes – Commissioner ~~Rosemary~~ to Commissioner Enright

Adjournment – Commissioner ~~Mike~~ to Commissioner Cochran and Commissioner ~~Rosemary~~ to Commissioner Enright

VIII. Adjournment

A motion to adjourn was moved by Commissioner Cochran and seconded by Commissioner Enright at 9:00pm. All in favor.

Attest:

Carrie Kolb