

Approved As Amended  
**PLANNING COMMISSION MINUTES**  
November 4, 2015  
**7:00 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

**I. Call to Order and Roll Call**

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

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright	Mick Cochran
Bernie Pfeiffer	Michael Smith

Also present:

Lisa Bryer, AICP – Town Planner  
Wyatt Brochu – Town Solicitor  
Cinthia Reppe – Planning Assistant  
Justin Jobin – Town Environmental Scientist  
Peter Brockmann – Attorney  
Scott Rabideau – PWS – Natural Resource Services Inc.  
Dan Cotta – American Engineering  
Kate Smith  
Maureen Coleman  
Pierre Pages  
Bob Van Cleef  
Victor & Lynn Bell – EPI

**II. Approval of Minutes October 21, 2015**

A motion was made by Commissioner Enright and seconded by Commissioner Pfeiffer to accept the minutes with the following changes:

Page 3, last paragraph:

Canada has a very comprehensive process for communities and I have Ms. Bryer has several of those plans if anyone wants to look at these she can hand them out. She will provide the Commission the links to these plans as well. We will have to decide how we want to handle this planning process; through Committees or sub-committees or just through the Planning Commission. Commissioner Swistak said you can get a degree in Sustainability? This is the wave of the future. We only have so many resources on this earth. Ms. Bryer is just looking to

see if the planning commission is on board with this. If so then I she will provide more information coming up. A visioning workshop would be first step.

**III. Correspondence – nothing at this time**

**IV. Citizen's Non Agenda Item – nothing at this time**

**V. Reports – nothing at this time**

1. Town Planner's Report
2. Chairpersons report
3. Town Committees
4. Sub Committees

**VI. Old Business**

**VII. New Business**

- 1. John Connors – Plat 16 Lot 222, Frigate Street – Zoning Ordinance Section 314 Sub District A Review, High Ground Water Table Impervious Overlay District – Zoning Ordinance Section 82-308 Variance Request for Development within the 150 foot freshwater wetland setback – Recommendation to the Zoning Board**

Commissioner Swistak said the Planning Commission is charged with reviewing this application and sending a recommendation to the Zoning Board.

Peter Brockmann, attorney, represents John Connors. Attorney Brockmann reported that the lot is 8332 sq. ft., a bit bigger than most of the single lots in the shores. He will be presenting with Scott Rabideau from Natural Resource Services and Dan Cotta from American Engineering.

They are here for a special use permit and they need a variance from the 150 ft. setback from wetlands. Mr. Brockmann went through the application submissions to make sure the planning commission members have everything they need.

He introduced Mr. John Connors. He is a police officer in Burrillville. He bought this lot a year ago in its existing size and plans on this being his retirement home.

Mr. Dan Cotta gave his background for the Board to accept his credentials, graduated in 1983 and has his PE, PLS, and is a Class 3 septic designer and president of American Engineering.

Typically their type of work is residential and commercial and municipal. They have done thousands of septic systems. A motion to accept Mr. Cotta as an expert witness was made by Commissioner Swistak and seconded by Commissioner Cochran. So unanimously voted.

Mr. Cotta discussed the property from an engineering perspective. The house to the west has encroached onto the property. The foot print is a 26x38 dwelling 988 sq. ft. footprint. Coverage of impervious surface is 11.8 % which is under the 12% allowed.

The applicant is proposing a dwelling within the R-20 setbacks, pervious driveway, rain garden, serviced by a bottomless sand filter system and they are proposing a private well. Additional plantings are being provided. A 2 bedroom septic system, Septitecis being proposed. The project was approved by DEM. The water table was 20 inches so they needed a 4 inch variance for that,

that DEM gave them. Hay bales and silt fence will be put in place before construction begins. There are adjacent lots that are owned by the town.

Commissioner Pfeiffer asked Jamestown Environmental Scientist Justin Jobin in the town ordinance what drives the 150 foot buffer? It is to protect the wetland **said Mr. Jobin and** we want to increase the buffer because of the nitrates in that area.

Commissioner Enright asked about a gravel driveway being pervious she heard that gravel is no longer considered pervious. Mr. Jobin asked about the materials being used for the driveway, they believe gravel is still being considered pervious and asked Dan Cotta to address. Crushed stone is more difficult with maintenance issues. Also pavers are considered pervious. Mr. Cotta said that pavers with crushed stone underneath is optimal.

Commissioner Cochran asked how long has Mr. Connors owned the lot? A little over a year, he was answered. Mr. Connors researched the state requirements and then found out about Jamestown's High Groundwater ordinance.

Mr. Jobin asked Dan Cottais this is the best configuration for the bottomless sand filter, did you look at different shapes of other shaped bottomless sand filters? They played with a rectangular shape he could have gained a foot but it was not practical. Jobin also asked about the difference in size between a 1 bedroom and 2 bedroom OWTS. Dan Cotta said 5 to 10 feet could be gained. On the radius map provided it does not show the septic systems that he said are within the 150 feet. Has DEM physically done a site visit? He deferred to Scott Rabideau who said the wetlands were flagged and verified by DEM. Were the soil evaluations witnessed by DEM? Yes.

Mr. Scott Rabideau was introduced by Mr. Brockmann. He provided a resume to the Commission, he has a BS in natural resource and a masters in business. PWS after his name stand for (Professional Wetland Scientist, national certification). He works with 30 of the 39 cities and towns in RIA motion was made to accept Mr. Rabideau as an expert witness by Commissioner Swistak and seconded by Commissioner Cochran. So unanimously voted.

Mr. Rabideau looked at the property and did a wetlands delineation for the property and they have shown the line off the property and the buffer that is on the property. This wetland is boxed in on all sides by development. Are there any streams or rivers that run through it? There is an intermittent stream which runs during high groundwater events and the remainder of the time it is dry. Mr. Brockmann questioned Rabideau about his report. He received comments from our conservation commission and that is when they recommended buffer plantings on the boundaries. He proposed deer resistant plants too and also explained some of the plantings and why. All native plantings in the raingarden in the buffer zone and it is a nice habitat area for wildlife. Groundwater quality should remain as it is today. All of the questions Mr. Brockmann asked were included in the report that Mr. Rabideau has provided for the Planning Commission in their packet.

Commissioner Smith asked who has jurisdiction in Jamestown is it DEM or CRMC? They both have jurisdiction Mr. Rabideau said but this area is regulated by RIDEM. Rabideau said by 2017 there will be changes to wetland setbacks that will apply to Jamestown.

Our zoning ordinance gives the applicant 8 technical criteria and all are met said Mr. Rabideau. Would it be better to always have 100 feet yes, the more the merrier, but it is now whether or not it has an impact on any of the 8 criteria in your ordinance and it does not. Give Connors credit he did everything proper for this application. Swistak says it may introduce pesticides, herbicides etc. on plantings and lawns. Swistak stated so we have a lot that was unbuildable on the day it was purchased so because of the engineering now you can build a house.

Kate Smith - 15 Spanker St. - she serves on the conservation commission for Jamestown. She walks down and passes this lot everyday and she showed on the map what she sees on a daily basis. The town made the decision to protect our wetlands and this will degrade them.

Maureen Coleman – 876 East Shore Rd. - she is the chair of the Conservation Commission, the wetlands on the site is part of a larger wetland they have documented groundwater contamination in the area, this is the motivation for all of the ordinances. We have learned the hardway that we need a 150 ft. buffer. Within the comp plan it is noted the largest issue is potable water and the freshwater wetlands are a high priority to protect. An action is to “strictly enforce the 150 foot setback”. The Conservation Commission request that the Planning Commission does not recommend approval of this.

Pierre Pages - 127 Frigate St. He has 3 children and lives on the abutting lot. He would like to clarify about the encroachment that was noted. He purchased the property and it had already encroached on the adjacent lot. He will take care of the encroachment issue. He has cleaned up the subject lot. He put his septic in 6 years ago; it was approved on a condition that it was an improvement not a new system.

Bob Van Cleef - 133 Frigate St. his lot is 3 lots to the west. His 2 concerns, he has high nitrates in his well and he has it tested and they bring in drinking water for health issues. If there is a 24 inch requirement for water table they are giving a few inch leeway but for the 150 foot setback that we have in place they are asking for too much relief.

Commissioner Enright asked about the report that Island Engineering sent up they said their well dried up and it was hydro fracked. Pierre confirmed that yes they just had it done last summer.

Solicitor Brochu said the Planning Commission is an advisory/recommendation put on the record for the zoning board. The Planning Commission view does not have to be unanimous, the Planning Commission can even say they do not have an opinion. Mr. Brockman agrees with Brochu.

Commissioner Swistak thanked Mr. Rabideau for his expert opinion. Given the hour and amount of testimony, Swistak says we cannot get findings and motion done today. He would like to ask the board's consensus and then ask staff for motion for the next meeting. We have a memo from staff that all conditions of 314 have been met. In terms of the variance required we can either give a recommendation to zoning that we either endorse it or not give any recommendation or we can give a negative recommendation and we all do not have to be in agreement.

Solicitor Brochu said he sits as the solicitor of the zoning board and they do take into account your opinion very carefully on both 314 and 308. Swistak said we can ask the town if they will be

willing to hire an expert at our expense. Brochu learned tonight the town is an abutter that is a separate issue and the town may be looking at this and may wish to comment.

Commissioner Swistak took a poll of the Planning Commission members:

Pfeiffer – lots of relief required based on the 150 ft. setback. He goes with science that is presented. In favor.

Cochran – charged with protecting our setbacks and wetlands. Not in Favor

Pendlebury – inclined to not approve based on the ordinance that they are charged with enforcing to the best of their ability. Not in Favor

Swistak – your presentation and expert Mr. Rabideau has made me re-evaluate my original opinion– neutral

Smith – bad precedent going forward, many decisions before us that were more deserving and we did not approve. Not in Favor

Enright –she greatly appreciates the evidence regarding the groundwater. Not in Favor

A motion was made by Commissioner Swistak to continue this application seconded by Commissioner Pfeiffer. So unanimously voted.

## **2. EPI Real Estate Holdings - Minor Subdivision with variances requested– Plat 9, Lot 211- 41 Narragansett Ave. – Jamestown, RI**

Victor Bell and Lynn Bell from EPI Real Estate bought this property and in 2008 they built a new building that is “green”. They are trying to draw a line on the lot to make it 2 separate lots. It is a corner lot and because they drew a line and what were the sides and dimensional variances the numbers change. He wants to review the variances they are requesting. A lengthy discussion ensued regarding the variances needed.

Mr. Bell said they will ask possibly in the future to have office space in the basement.

Commissioner Swistak asked if the parking committee has weighed in on this? No there is not currently discussion on Clinton Ave. he was told by Lisa Bryer that she is aware of.

Commissioner Swistak asked why do you want to divide the lot? He is getting older and may want to move into one. His business has become more working outside of the office and his staff works from home often. EPI does not need as much office space.

A discussion ensued regarding parking and the amount of spaces that the applicant needs. Is it classified as duplex or multi family? Mr. Costa interpreted 2 spaces are needed for lot A. If they were building the new building today they would possibly need 18. It was reviewed back in 2007 and it is 2 buildings so going to 2 lots you are making it non-conforming. It will be non-conforming as far as size for the front building and parking and a rear setback for lot B.

Commissioner Swistak said he does not have a problem with the subdivision. Swistak would like to get a memo from the Parking Committee or Chief Mello regarding Clinton Avenue and if there are any plans to make changes or any current problems. The applicant stated he will abide by whatever the Planning Commission wants. You cannot subdivide the lots and then use the parking from the front lot to count towards the rear lot. On street parking is public and can only be counted if it is “directly in front of your lot”

A motion to extend the meeting past 10:00 p.m. was made by Commissioner Swistak and seconded by Commissioner Enright. So unanimously voted.

Commissioner Pendlebury said we need to sort out the parking first. We are making these lots more non-conforming. Commissioner Pendlebury thinks this could be battled around more. Are people using these spaces as they are? Solicitor Brochu said you have to look at the properties separately. Commissioner Pendlebury said having the extra spaces softens the variance. The applicant should show the reason for the variance.

Pendlebury stated that we do not have enough information to make a decision at this point. Be prepared to address this at zoning you are creating the hardship.

A motion was made by Commissioner Swistak and seconded by Commissioner Cochran to have Ms. Bryer speak to Mr. Costa about requesting that they can be put on the next Zoning Agenda even though they may not be through with Planning by the deadline. So unanimously voted.

A motion to continue this matter until the next meeting was made by Commissioner Enright and seconded by Commissioner Smith. So unanimously voted.

#### **VIII. Adjournment**

A motion to adjourn was made by Commissioner Enright and seconded by Commissioner Smith at 10:30 p.m.

Attest:



Cynthia L Reppe  
Planning Assistant