

Approved As Written  
PLANNING COMMISSION MINUTES  
July 17th, 2013  
**7:30 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

The meeting was called to order at 7:35 p.m. and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Mick Cochran
Michael Jacquard	Richard Lynn
Michael Smith	

Also present:

Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Peter Ruggeiro – Town Solicitor  
Matthew F. Callaghan – Attorney  
Abby Campbell King  
Al & Ranae Scartabello  
Barbara Hermann  
Patty Lager  
Betty Hubbard  
Wendy Fagnoli  
Ron Fagnoli  
John Murphy - Attorney  
Mike Ridge – Owner Spinnakers Cafe  
Bill & May Munger  
Bob Bailey – Real Estate Practitioner

**I. Approval of Minutes June 26, 2013**

A motion was made by Commissioner Enright and seconded by Commissioner Smith to accept the minutes as written. So unanimously voted.

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

**III. Citizen’s Non Agenda Item – nothing at this time**

**IV. Reports – nothing at this time**

1. Town Planner’s Report
2. Chairpersons report
3. Town Committees
  - a. Harbor

- b. Buildings and Facilities
  - c. Affordable Housing Committee
  - d. North Rd. Bike Path Committee
4. Sub Committees

**V. Old Business – nothing at this time**

**VI. New Business**

**1) Scartabello - 14 Holmes Court – Plat 8 Lot 180 - Development Plan Review per Zoning Section 82-1106 C. Specific to R-8 and R-20 Zoning Districts – Development of Undersized Lots and 82-1105 C Pre-Existing Conditions**

Town Planner Lisa Bryer gave the Planning Commission and the audience a brief update of this application. This house in the R-20 district in Shoreby Hill is on an undersized lot so it has to be reviewed under Section 82-1106. The application is subject to the standards noted in the ordinance and it refers to the pattern book and design guidelines. The Technical Review Committee (TRC) reviewed and approved the application with minor changes the first time and a permit was issued. The neighborhood was outraged that the existing home was removed. When The Scartabello's were approached by the neighbors they decided on their own to come before planning and they made changes to the building façade based on neighborhood comments with the help of Architect Abby Campbell King. The TRC reviewed the updated plan last week and approved it. The planning commission has before them the minutes from both TRC meetings, the Planner's memo and also a draft motion for approval based on the TRC findings and the Planner's recommendation. When we adopted the village district zoning the consultant developed the pattern book and design guidelines during this time. In this particular situation, utilization of the sections noted in the design guidelines are mandatory because it is on an undersized lot per Section 1106 C.

Attorney Matthew Callaghan is representing the Scartabello's. He noted that they have tried to comply with the town regulations. He is going to turn this over to Mr. Al Scartabello. He and his family are full time residents in Shoreby Hill for the last 7 years.

Mr. Scartabello testified: He has appeared before the TRC twice for this home and two other times for houses he built in Shoreby Hill. He applied for the demolition permit which is what he had done for the other two houses he built. He had completed construction documents and then was told the neighbors were complaining. They took it very seriously he has always done things by the book and feels the need to comply and also wanted to get off on the right foot with his neighbors. He reached out to one of the neighbors and they met with the neighbors on the first plan that was approved by the TRC. Mr. and Mrs. Scartabello respectfully made suggestions and he left the meeting feeling good and they would seriously consider everything they said, they took a few of the concerns into consideration and then consulted with Abby Campbell King and incorporated many of their concerns. They would like the approval of the Planning Commission.

Commissioner Pendlebury who was on the TRC that approved the plan twice, explained the adjustments that were made and when he came back the second time they went through the plan

and elevation changes and some additional suggestions were made, the Planning Commission has no jurisdiction in terms of design.

Barbara Hermann - 23 Walcott – read something that says if you are an undersized lot you shall adhere to the guidelines. She quoted from the guidelines. If you go down the list she thinks several of the items should be on the plan. Town Planner Lisa Bryer said it states very clearly the pages and sections of the guidelines and not the entirety of the guidelines. Commissioner Smith said she is saying these guidelines are mandatory. Ms. Bryer said she (Ms. Hermann) is interpreting them incorrectly in that this application only has to comply with the sections noted in the Zoning Ordinance under 1106C. Commissioner Smith made a point of saying, these are guidelines, guidelines are not mandatory.

Town Solicitor Peter Rugeiro said the simplest way to think of this is you are not free to impose your own judgment, you have to follow the principals that are in the pattern book. The Planning Commission has to interpret it as to how the plans measure up to the pattern book.

The applicant is submitting additional information:

The initial application is now known as Exhibit 1, Exhibit 2, Examples of guidelines and how application conforms and Exhibit 3 the plans for the separate Garage.

Abby Campbell King, 11 Friendship St. Jamestown, is an AIA registered architect in RI and Mass with over 35 years of residential experience. The last 12 years she has been here in Jamestown, Rhode Island. Her work is traditionally new construction. She was on a Historic Commission and brought new guidelines to Arlington Mass. She has plans for the garage that were prepared after a concern by a neighbor. She distributed the plans to the Board (Exhibit 2). She met with the applicant and they were adamant about the windows in the rear of the house for the view. They did their research and found other similar homes that have the same windows along Conanicus Avenue in the vicinity of this house and in Shoreby Hill. She explained the standards in the pattern book and how they have been addressed. She addressed windows, front porch, building type (2 story with attic), massing (similar to bungalows), garage is in the rear of the lot and is a bungalow, hipped roof with exposed rafter tails. King believes that the standards have been complied with.

Commissioner Swistak addressed what Barbara Hermann felt that the rear is out of sync with the standards.

Ms. Bryer stated that the intent of the regulations are the street front view of the building not the rear of buildings. Specifically, how the building addresses the street and the streetscape.

Commissioner Pendlebury agreed, however he feels that since the rear is visible, it should be addressed. Contextually, everyone has put glass on that side of their buildings and he does not see that as inconsistent. He agrees with everything said, by an architect's standards this is a bungalow style building it is not anything other than that. It should be its own bungalow and Ms. King said the style and elements of the porch, trim and roof are consistent with bungalow. It is lower than the 35 foot height limit. Pendlebury would like to see the porch continue further.

Commissioner Swistak noted that the garage plans were not discussed at TRC. Should it be reviewed at TRC or can it be reviewed here and now. You can see by looking at the site plan it is a separate garage from the main house structure. The planner noted that the only member present at the TRC meeting not present tonight is Fred Brown, and the garage architecture is not a zoning issue. She feels the Planning Commission can review the plans tonight. The building is in the rear of the property and separated from Conanicus Avenue by another lot and shrubs at the rear of the Scartabello property.

Betty Hubbard - 41 Emerson Rd. she thinks this plan has gone a long way to meeting the requirements to fit in the neighborhood. She thinks the context which it sits has the same windows as the condo's and the historic house to the right has big windows, she thinks it is a wonderful attempt of the applicant to fit in and to listen and meet with the neighbors.

Andrew Roos – 18 Hawthorne - this is a gateway site with no back, it has 2 fronts in his opinion. He echoes Barbara Hermann's remarks. He thinks it is a really important site that is gateway to entering Shoreby Hill. What about drainage issues, height etc. There has been a lot of earth that has been brought into the site, will that create more water runoff? He just wishes the house wasn't quite so tall.

The building official has stated the building is 30.5 feet from the top of the foundation and meets the requirements of zoning.

Andrew Roos 18 Hawthorne - his house was built in the 1800's and he has renovated it painstakingly to be historic. If I want to tear my house down now before the ordinance goes into effect he could. That would not be good in his opinion.

It was noted by the Planner, and is in the Memo, that the former residence was built in 1961 and was a "non-contributing" structure by the National Park Service standards for homes within the historic district.

Patty Lager - 75 Longfellow Rd. - The Scartabello's have gone out of their way to listen to the neighbors and made changes. The concept that it is not traditional enough is so subjective in her opinion. She fully supports what they have done and their plans.

Wendy Fagnoli - 10 Hawthorne Rd. – Andy asked about drainage and height. Fred Brown, building enforcement officer has verified it is under the 35 feet and meets the regulation and it meets all zoning regulations. The drainage plan complies with the regulations. Mr. Brown and Mr. Mike Gray have reviewed all the plans and approved them. The drainage plans were submitted to staff, reviewed and approved. Mr. Scartabello says they are an improvement of what was there before, there cannot be any net increase in drainage. There were issues before and he has planned to alleviate all impacts with the new structures increase in footprint.

Barbara Hermann wants to know what a level spreader is? The Planner stated that it is part of the design of the rain garden that when the water comes out of the rain garden at the lower elevation, the water will be distributed evenly and it will not be channelized flow. This is an accepted stormwater mitigation strategy.

Rob Fagnoli – with the house being bigger there is a larger percentage of impervious surface will it be managed internally on site. His understanding is that the quantity because of the impervious surface will create more runoff. The Chair answered that testimony has been given that it will be handled on site.

Do any of the Planning Commissioners have an issue with the garage?

Commissioner Enright asked why 2 garages? She was answered the one attached to the house is 1 car and will house utilities; they wanted additional room.

Commissioner Smith says it is appropriate for the neighborhood.

Commissioner Cochran said he feels the Scartabello's have done an admirable job and in looking it as a gateway for Shoreby Hill. And to respond to Mr. Roos's comment he thinks the rear of the building is not the main focus. It is an improvement over what is there before.

A motion was made by Commissioner Smith and seconded by Commissioner Cochran To approve the Development Plan for 14 Holmes Court to construct a new house, Plat 8 Lot 180 per 82-1106C.

The building and site plans shall be approved as shown on the plans submitted titled Scartabello Residence dated July 7, 2013, two sheets containing front (west) elevation, left (north) elevation, right (south) elevation and rear (east) elevation. The application also contains a proposed site plan by Narragansett Engineering, Inc. dated 3-29-13 and Exhibits 2 and 3 below

The approval is based on the following findings of fact:

1. The building will be used as a residence;
2. The plan proposes off street parking via a driveway;
3. The plans meet the standards presented in 82-1106C.3. a through f and as shown in "The Jamestown Village Pattern Book and Design Guidelines for building in the village";
4. No review standards are provided to assist the Planning Commission for review per 82-1105C.
5. The former house, although included in the proposed "Shoreby Hill Historic Overlay District" was determined to be, in the National Register of Historic Places Registration Application, a "non-contributing" structure built in 1961-2. It was noted that the former building was of a "different scale from the other houses in the district and recent additions and alterations have compromised its integrity."
6. The proposed development plan does not alter the general character of the surrounding area and is not inconsistent with the Jamestown Comprehensive Plan; and,
7. The proposed house has been approved by the Technical Review Committee at both the June 4, 2013 meeting and again, as an amended plan, at the July 11, 2013 meeting;
8. The note that appears on the plan shall be amended as follows: "Level spreader ~~or secure~~ easement from abutter."
9. Mr. Scartabello, Attorney Matthew Callaghan, Edq. and Architect Abby Campbell King testified on behalf of the applicant;
10. The Planning Commission heard from the Neighborhood. The Planning Commission and the applicant attempted to address the concerns noted;

11. The Planning Commission accepted the following 3 exhibits into the record:
  - a. Exhibit 1 – initial application
  - b. Exhibit 2 - Examples of the guidelines and how the application conforms to the Jamestown Vision Pattern Book
  - c. Exhibit 3 – Garage Plans

In addition, the Planning Commission recommends approval to the Building Official of the building permit per 82-1105C.

So unanimously voted.

2) **Spinnakers Café - 3 Ferry Wharf - Plat 9 Lot 791 – Development Plan Review per Zoning Section 82-1101 K. 5) New Use – Request to add liquor license to establishment**

Commissioner Jacquard recuses himself and leaves the table.

Attorney John Murphy representing Mike Ridge owner of Spinnakers wants to add 2 things to the menu, Beer and Wine instead of the BYOB that it is currently. This is considered a new use so that is why we have development plan review before planning. The liquor license lies with the town council. There will be a liquor hearing after planning and zoning. The Town Council will review the liquor license every year. This is a BV limited license which consists of beer and wine. Ferry Wharf East where Spinnakers is located is one of the earliest condominiums in Jamestown. Each of the unit owners approve of Spinnakers going forward and all the other permits. Spinnakers is a tenant and does not own the condo, Mike Ridge is the owner operator of Spinnakers, the unit is owned by Bill and May Munger; they own several of the condo units. Spinnakers is a 68 seat restaurant 38 are indoor seats year round. The boardwalk is actually a pier. The sidewalk is private property, owned by the condominium association.

There are 2 issues Mr. Murphy said, one of them is the control of the liquor which is a police matter, Mr. Ridge does not want to serve alcohol out front. Those 24 seats out front will not be served beer and wine. The other issue is parking. There are 3 leased spaces in front of the building, actually 5 spaces. The requirement for a 68 seat restaurant, if you look at article 12, the requirement for parking is 8 seats per space since we are assuming that the building footprint is greater than 50% of the lot. They would need 9 parking spaces total, if you only apply to the 39 additional seats the requirement is 5. They will have to go before the zoning board for a change of use and they will have to ask them for parking relief. They are making an effort to find shared parking spaces Bank Newport has been approached. They will not give full permission in writing but have welcomed the customers to park there. He also asked Jamestown Designs. The Conanicut Marine facility at Taylor Point will be utilized for parking. Many of the Spinnakers customers come by boat not by car. This change of use should be granted, that is the civilized thing to do. Parking should not control it.

Bob Bailey addressed the Planning Commission. He worked in the building industry for several years and he is a real estate practitioner that has appeared before the zoning board and other boards and is part of the team said Mr. Murphy.

Mr. Bailey said in front of the building there are 17 parking spaces. It is just a change of use for 2 items being added to the menu. Additionally many of the patrons get to that area by shuttle because they are already there on their boats. The spaces directly in front of the facility have limited time aspects, they don't see this as individuals coming and hanging there for long periods of time, a quick lunch or dinner stop.

A handout was given to the Planning Commission for the record. It includes the assessors information and pictures.

A discussion ensued regarding the square footage of the condominiums and of the land. Mr. Bailey responded that there are 4 owners for the 6 condos. The square footage of the land is substantially less than the 1981 figures of 12,000 sq ft. It was suggested that when they appear before the zoning board they should have a land survey done which definitively shows the size of the land with respect to the building size. The amount of parking is dependent on the 50% rule. The Planning Commission cannot make that call; it should be based on facts and the applicant's burden of proof. Mr. Bailey testified that in his opinion, parking will not be impacted by this change in use. It was noted by the Chair that when they go to the zoning board they should have a new survey.

Commissioner Smith asked what kind of restroom facilities do they have? Mr. Murphy responded that they use the Conancicut Marina facilities. So they must leave the building for the restroom? Yes he was answered. Commissioner Smith wants access to the bathrooms increased. Most people sit on the south side of the building and they will go out the south door immediately to the left is the bathroom for Conancicut Marina. Smith also wants to address parking. Just because other businesses have been given approval without parking doesn't mean it is right. We are not taking care of the parking problem we already have.

John Murphy noted that parking will spread out the way it does naturally and currently does. In Bristol business do not have to provide parking, Mr. Murphy thinks it should be that way here. Commissioner Pendlebury asked about the parking when Spinnakers expanded to add the second unit. He asked if they had parking for 29 then. He has always had what is in front of the unit said Mr. Ridge. The Planner stated that Mr. Brown indicated that when it was expanded into the neighboring unit, if they were going to increase their seat numbers, they would need to go back to the zoning board. The increase in parking was not addressed previously. The diminishment of the Conancicut Marine store gives it's parking to the Café stated Mr. Murphy. Originally some of the seating had spread out, now the number of seats in existence is 68. The Planner noted that this is why it is important to get it out on the table; what are the parking numbers. In her opinion and the opinion of the Zoning Enforcement Officer, the "grandfathered" number of seats is 29. Historically his victualling license, signed by the applicant just last year, said 29, so that's the number we start with originally.

Commissioner Swistak asked about the 6 seats outside of Spinnakers on the south side area that is CMS area correct? Yes or common area. It is under CMS control. The Fire Marshall numbers are in our packet. CMS is probably going to have to apply too for the additional 6 parking spot

variance. They are not serving or allowing alcohol in the common area or the sidewalk on the north side. This is up to the Town Council.

The Fire Marshall said capacity includes the seating on the back deck too, so they are well within the guidelines. The Planner noted that Fire Marshall capacity is for fire code purposes and does not relate to zoning, the number of seats and parking. It is to quantify the safe number of people in the building at any one time. It applies to oranges as far as capacity.

The applicant will come up with a site plan for the parking which has the building and lot size. The Planning Commissioners are going to recommend approval to zoning based on 9 spaces. They currently have 3 so we are going to recommend the variance for 6.

Commissioner Enright said she realizes the liquor license is something that is not part of their purview, but she questions the reality of it. She feels it does not fit with the Ice Cream Shop. Mr. Ridge said Spinnakers has actually changed and the food portion exceeds the ice cream portion. There are a number of other restaurants in New England that serve ice cream and they also serve sandwiches with an option of beer and wine. That is the model he is trying to follow. He thinks it will be a nice asset. Now it is a Bring your own Bottle (BYOB). If the liquor license is issued the BYOB goes away. Can we finalize the conditions and results the first meeting in August asked Commissioner Swistak after we take a straw vote now? There was no objection by the applicant.

Commissioner Pendlebury - agrees with Mr. Murphy's comment, this kind of retail outlet should not be hung up with parking, a lot of people will walk there. In favor of DPR and Parking Variance.

Commissioner Smith – would approve DPR but not parking

Commissioner Enright – would approve both

Commissioner Cochran – codify seating, would approve both

Commissioner Lynn – would approve both

Commissioner Pendlebury – would approve both

Commissioner Swistak – would approve both

A motion was made by Commissioner Enright and seconded by Commissioner Smith to continue this application until the August 7<sup>th</sup> meeting. So unanimously voted.

**3) Discussion of Zoning Ordinance Section 82-1105 C – pre-existing conditions**

A motion was made by Commissioner Smith and seconded by Commissioner Enright to continue this agenda item until the August 7<sup>th</sup> meeting. So unanimously voted.

A motion to adjourn at 9:50 p.m. was made by Commissioner Enright and seconded by Commissioner Smith. So unanimously voted.

Attest:

Cynthia L Reppe  
Planning Assistant

This meeting was digitally recorded