

Approved as amended
Town Council and Planning Commission
Joint Work Session
Jamestown Town Hall
Rosamond A. Tefft Council Chambers
93 Narragansett Avenue
Wednesday, November 1, 2023
7:00pm

I. Roll Call Town Council Members

President Nancy Beye said that all Town Council Members were present

II. Roll Call Planning Commission Members

Chair Swistak said that all Planning Commission members were present except Dana Prestigiacomo

III. Call to Order, Pledge of Allegiance

The meeting was called to order at 7:04pm

IV. Joint Town Council and Planning Commission Work Session

A. Review and Discuss amendments to the Town of Jamestown Zoning Ordinance –
Code of Ordinances Chapter 82

1. Presentation by Jeff Davis, Horsley Witten Group, Zoning Consultant
Jeff Davis for Horsley Witten gave presentation (see attached)

2. Project information and proposed amendments

Councilor Mary Meagher recognized that there were members of the Jamestown Affordable Housing Committee in the audience. She invited Bob Plain, Chair, to speak.

Bob Plain of 18 Calvert Place, spoke to the Council and Commission. The JAHC sent the Town Council a memo regarding ADUs. He addressed three changes proposed in the memo.

1. Remove the provision that one of the units has to be owner occupied.
2. Remove that no ADUs can be larger than 50% of the main dwelling size.
3. ADUs should be allowed in Commercial Downtown District for residentially developed properties.

Commissioner Swistak said that Bob Plain has been to Planning Commission meetings. The Planning Commission is charged with protecting rural character of Jamestown. The Planning Commission went into writing this section of the Town Ordinance cautiously. The State enacted laws that make ADUs available to almost everyone by right. This is a big change to our rural character. We need to ease into ADUs and consider water usage, density, change of neighborhood. It is the time to be deliberate.

Councilor Randy White said that he can think of a primary residence on Marine Avenue that isn't more than 800 sq. ft. This would limit them to a 400 square foot ADU. He was concerned that it is impacting those we may want to help most.

Commissioner Swistak said that lot size and calculations can only be so big based on the size of the primary structure. He said that a small size house should be allowed to apply for a special permit.

Councilor Meagher said that she disagrees with Swistak because she doesn't agree with the notion that Jamestown has rural character.

Commissioner Cochran said that the situation is complicated because it is about density and water supply. The lot size and coverage may be more valid. He gave an example of 1,200 sq ft house with 600 sq. ft ADU.

Commissioner Pendlebury said that the State legislation was not written to conform to Jamestown and its rural character. Do we want the density that the State Law says we should have? Can we support the increased density with our water supply? We need to take the first steps very carefully.

Councilor Meagher said that the town has constraints due to water and therefore number of people, and these are permitted by right. The Town can regulate with water and zoning restrictions.

Commissioner Cochran asked about the water plan? Councilor Meagher said the Town Council is the Water Board. Commissioner Cochran said that new water usage goes under the radar.

Councilor Meagher said that lot coverage is an issue because there are McMansions built on big lots with a 18,000 sq. ft house and a huge footprint.

Lisa Bryer, Town Planner, said that the Town adopted Accessory Family Dwelling Units (AFDUs) in 2014. AFDUs got off to a slow start. The intent of the ordinance has been accomplished and most of the AFDUs built are truly for family members. However, during COVID residents wanted to have an accessory structure with an office and a kitchen. Bryer thinks that ADUs are going to be popular. In the ordinance ADUs are required to be rented for 12 months and cannot be used as a Short-Term Rental.

Bryer explained that ADUs on only residentially developed lots in the Commercial Downtown district is important because we do not want a separate structure being built on commercial lots or lots that have gone through Development Plan Review and have been master planned. The CD district allows for mixed use, multifamily units or a duplex.

The question was raised if there should be another standard for a house less than 1,000 sq. ft? Bob Plain said that the language clearly states an ADU must be subordinate to the primary dwelling. He gave the example of his property in East Greenwich that is almost 800 sq. ft and the ADU is 710 sq. ft. He is concerned if the ordinance makes it hard to build an ADU then people will turn property into Short-Term Rentals.

Commissioner Swistak told the Town Council that the Planning Commission did not look at how many lots can accommodate ADUs.

Councilor Brine asked about the restriction on solar as a principle use? Commissioner Pendlebury explained that solar cannot be the primary use of land so that big open spaces do not get converted into solar arrays. Solar can be used to support the uses on a lot.

Councilor Meagher discussed the commercial waterfront zones. Commercial waterfront west is very different from commercial waterfront east. Update the Use Table 6-1 and separate CWe and CWw into two different columns, not a combined column like it is currently.

Discussion of Lodging and STR. Councilor Meagher discussed definitions. There is a dilemma with STR encroaching on residential character and the peaceful enjoyment of one's property. Lodging by definition is commercial. STR is not defined in the Zoning Ordinance, it is a separate ordinance in the Code of Ordinances (for enforcement purposes). Councilor Enright noted that if it is used in the STR ordinance, the definition should be included in that ordinance.

Discussion over next steps ensued. Councilor Beye would like to have another workshop. Councilor Randy White asked if they could make the tweaks and then hold a public hearing? Councilor Meagher asked if a public hearing could be held and make the tweaks at the hearing? Councilor Mike White believes we need to move this to a public hearing. Town Solicitor Peter Ruggiero said to settle on the version that you want to submit to the public, and have a public hearing on the version that you are ready to vote on.

Councilor Randy White asked if solicitors have been involved in the process? Commissioner Swistak said that Wyatt Brochu attends all the Planning Commission meetings. Ursillo, Teitz and Ritch, completed a legal review of the Zoning amendments with Horsley Witten Group.

V. Open Forum

Councilor Beye opened the floor up for public comment.

Christian Infantolino, Esq of 28 Reservoir Circle spoke on the following points:

1. Section 82-104 Definitions:

- Substantial Modification: What is the process for determining 50% replacement cost? (i.e. your cost may be different from my cost). Who is the authority making the decision if it meets the 50% requirement? What is the standard for the 50% replacement.
- Patio: There is no definition for Patio. This becomes an issue with Lot coverage and setbacks. If a patio is elevated does it count as coverage? What is the difference between a deck and a patio (setback and coverage)?

2. Article 7

- Section 82-700 Accessory Structures (D): This provision puts an absolute ban on accessory structures in front yards. Infantolino stated that he is curious as to why we need this prohibition, especially because there are exceptions for waterfront property and there are many homes on the island that are not waterfront but also have accessory structures in the front

yard. Also, we already have dimensional requirements for accessory structures, which is the control mechanism, and if a variance is needed, then it can still be obtained so long as it meets the criteria. An absolute ban is not necessary and the dimensional regulations should govern the location.

- Height Language for Accessory Structures: The 5' difference language is very confusing, especially because there are already dimensional regulations in the dimension table.
- Section 82-703 Swimming Pools: The language of this provision is still confusing and it is hard to tell where to measure the setback, the fence, the playing surface, etc. If the playing surface, then what is the playing surface? The lines, the hardtop?
- Section 82-706 (4): What is the purpose of the 10' setback if the vehicle is located on the property. If the vehicle or trailer is in a driveway, why does it need to be pushed in 10'. Why can cars park directly on the property line, or even on the street, but my trailer needs to be pushed back 10', especially if it is in a private driveway?

3. Article 8

- Section 82-800 J(1) (c)(D): High ground water: These provisions create new criteria that an applicant will need to provide evidence for on the record in order to obtain the Special Use Permit. How is an applicant supposed to know what the “availability and capacity of existing and planned public and or private service facilities.”? There is no way for an applicant to provide this kind of testimony.
- Same sections creating extra criteria: What “goals and patterns of land use” are being referred to in these criteria? Where in the comp plan does it lay out the criteria and plans for the high ground water district?
- Section 82-800(K)": Infantolino said that this needs the most attention and likely to be completely removed in its entirety. This provision is trying to make a dimensional variance a "USE" variance (i.e. under this provision a house in the shores that wants to put a one-foot expansion on their deck will not be able to do so because it is virtually legally impossible to obtain a use variance). The standard to obtain a USE Variance is "No other beneficial use." If you cannot prove this, and it is very rarely proven, you will not get the variance. Also, this section refers back to subsection G. Subsection G is not a use prohibition, rather it is merely a prohibition section and not a prohibition on USES.

4. Article 10

- Section 1004.3: This provision now makes every single application for a special use permit to obtain planning commission recommendation prior to moving to zoning. This is extremely burdensome to both the applicant and the Town. This also adds at least another 3 weeks to an applicant's process, at a minimum from a procedural standpoint. This also begs the question if the applicant is now going to get hit with 2 application fees and 2 mailing fees on top of the increased amount of time to get a permit.
- Section 1007.1: Looks like a requirement for certified mail for notices. I believe that zoning has gone to regular USPS mailing. The mailing requirement for notices should be the same.

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5. Article 11

- Section 82-1103.2(D): you account for waterfront lots in every district except for the R8 and R20. What about waterfront lots not in the overlay district?

6. ADU: Infantolino thinks that the Affordable Housing Committee made very good points. He thinks that it is extremely dangerous to leave the “max size” of the ADU to a variance. Although variances are part of the ordinance, if it is already known that there are issues, the Town should not just say “well lets just settle and let the citizens apply for a variance.” There are legal standards that are not met just because the Town wanted to put a smaller number and then tell the citizens to apply for a variance.

He believes that the Owner-Occupied requirement should be removed. This is virtually impossible to enforce and some of the properties are occupied as second homes, etc. He also believes that ADU should be allowed to be a minimum of 500 square feet for a 1 bedroom and 1000 square feet for a 2 bedroom. This is not a lot of space.

Chris Walsh of 15 Rosemary Lane asked why 6 hens regardless of lot size? Bryer said if you are a farm, then you have the state definition of farm and are not restricted. The 6 hens are for a residential lot.

It was decided that the Planning Commission will discuss the changes proposed tonight at their next meeting on November 15. The Planning Commission will submit recommended changes to the Town Council for their November 20 meeting. The Town Council will order it advertised at that meeting and set the Public Hearing in the second or third week in December.

VI. Adjournment Planning Commission

A motion to adjourn at 9:28pm was moved by Commissioner Enright and seconded by Commissioner Cochran. All in favor.

VII. Adjournment Town Council

A motion to adjourn at 9:28pm was moved by Councilor Beye and seconded by Councilor Randy White. All in favor.

Attest:

Carrie Kolb