



**TOWN OF JAMESTOWN
REGULAR TOWN BOARD MEETING
November 4th, 2019 MINUTES**

Mayor Lenarcic called the regular meeting to order at 7:02 p.m. Present at roll call were Trustees Harris, Box, Yahnke, Brancato, Chezar and Loving

Audience members in attendance included: Sera and Jason Vogel, Jan Reed, Jyoti Sharp, Jese Engwall, Jon Ashton, Mary Brown, Erik Flink, Jim McGinley, Mark Williams, Tara Schoedinger and Sam Scott

ADMINISTRATIVE ITEMS

Approval of Agenda

The approval of the minutes for October 7th, 2019 will be tabled.

Trustee Yahnke made a motion to approve the agenda as amended. Trustee Brancato 2nd the motion, which passed unanimously.

PUBLIC HEARING

Request for a variance under to Section 1.c. of Ordinance 3-1, 2019 concerning side yard setback in order to construct a carport at 175 Main Street.

Trustee Harris made a motion to open the public hearing. Trustee Chezar 2nd the motion, which passed unanimously.

Jyoti Sharp distributed a letter to the Board and read the letter to the board.

Mark Williams, who owns the property across the street from the applicant, read a statement he provided to the board.

Jese Engwall, who also owns property across the street from the applicant, expressed that property owners should take the risks of living along a busy road. She read from a letter she sent to board members. She noted that she did not receive a comment from the applicant. She accepts the hardship of having a driveway along a busy road with snowplows blocking cars in with snow. She felt it was a personal choice to re-build and asks that the applicant consider her concerns.

Note: Letters submitted above are attached to the minutes below.

Allan Mueller also submitted a letter in favor of the variance.

Tara Schoedinger stated her concerns about the unintended consequences due to Ordinance 3-1, 2019. She felt that this Ordinance brings up grievances from community members addressing what property owners should do with their property instead of addressing safety concerns, which is what the Ordinance was intended to address.

Jim McGinley stated he was not in favor issuing the variance.

Jyoti Sharp received a letter from Bela and Martine Amade that they have no objections with approving this variance.

Jyoti responded regarding the road in front of her house and stated that the landscape has changed.

Trustee Harris asked about the builder having equipment over the east side of her property. Jyoti will speak with the builder about not having equipment over her east property line so not to disrupt the vegetation on the town open space.

Ken Lenarcic asked how much property is in question. Jyoti responded that she could maintain a 2-3 foot setback and still build the carport.

Trustee Harris made a motion to close the public hearing. Trustee Box 2nd the motion, which passed unanimously.

FLOOD RESPONSE, RECOVERY AND REBUILDING

Discussion, Direction, Action:

Tara gave an update on flood recovery activities. The team is reviewing approaches to winterization for the irrigation ditch. Allen Muller (Ditch rider) did operate the ditch for the first time since the flood.

The generator for the fire station will be installed this month.

There will be a change to the sheet flow analysis on the lower main bridge and the team is working on a fix to that and there will be a change order.

The team along with Mark Williams have been reviewing the letter of map revision (LOMR). The Colorado Water Conservation Board is re-issuing the entire flood insurance rate map (FIRM). They have updated it thus far based on two locations in Jamestown, which are along Anderson Hill and at 51 Ward Street.

Roger Loving asked why his property on the east side of town is not included. He stated that his initial problem with the LOMR had to do with the way they did their modeling. Mark Williams stated that the LOMR for the bridge has a very limited area. The County is involved with the work on James Canyon and the revisions and has hired the contractor doing the work.

ANNOUNCEMENTS

IN-PERSON REPORTS

Town Clerk/Treasurer Report: Kristi Rutledge

The Clerk reported that the Budget Workshop will be Tuesday, November 12th at 6:30 p.m. There was one building permit that was approved at 20 Main Street for a re-roof. In January 2020, board and mayor nomination petitions will be circulated to the community.

Floodplain Administration: Mark Williams

Mark gave an update on Floodplain activities. Colorado Hazard Mapping (CHAMP) is working on that project. Mark stated that there are preliminary maps now being reviewed. There have been some questions around septic issues on the development at 63/67 Ward Street. Mark will include Trustee Loving in the discussions.

Water Committee: Jon Ashton

Jon gave an update on the water committee. The water to the parks and gardens has been shut off for the winter. A few new backflow devices were installed at the Town Square and Community Gardens. Jon will flush the hydrants this fall. All the exposed valves that are accessible have been exercised. Lead and copper results have been received and comply with proper levels.

JCWI (James Creek Watershed Initiative): Mark Williams

There is a watershed district ordinance in place which enables a committee for overseeing watershed activities. Interested community members can send a letter to the Town Clerk to join the committee.

BOARD ACTION ITEMS

Discussion, Direction, Action:

Motion to approve/deny request for a variance under to Section 1.c. of Ordinance 3-1, 2019 concerning side yard setback in order to construct a carport at 175 Main Street.

Trustee Box stated that he doesn't feel that based on the language in the Ordinance 3-1, 2019 he can vote in favor of granting a variance. Trustee Harris said his concern was to potential damage to town landscaping. If there is assurance that the town property would not be damaged. For two feet he doesn't feel he needs to make it more difficult. Trustee Chezar stated her concerns about many of the affected residents who are adjacent to this construction. The facts are clear that none of the technical conditions have been met in the Ordinance.

Trustee Yahnke feels that it is not that much to ask to grant the variance.

Trustee Harris made a motion to approve the request for a variance with the provision that in order get the approval there is a commitment there will be no adverse impact on town property adjacent to the property owner. Trustee Yahnke 2nd the motion.

Ayes: Yahnke and Harris (2)

Nays: Chezar, Box, Loving and Brancato (4)

The motion did not pass.

Discussion/direction of endorsing a well permit for 63 Ward Street

The board discussed various issues with the installation of a water line for this property including a request from the owners about installing a heated product around the water line. If this request were to be approved, the town would be responsible for this water line, which does not have a long warranty. After much research on installing a water line, the town would be better served to not allow a product that would have a potential liability and cost to the town in the future.

Trustee Harris made a motion to approve the town in writing a letter to ALM in support of a well. Trustee Loving 2nd the motion.

The water committee's position is not to get involved in any legal disputes due to right-of-way issues and the cost benefit doesn't make it worth any further dispute. The Water committee has gained additional information about the situation.

Ayes: Harris, Box, Yahnke, Loving and Chezar

Nays: Brancato

The motion passed 5-1

Trustee Harris will advise some changes to Addendum A of the Water Ordinance. He will discuss the changes with the Water Committee and bring the recommended revisions to the board for approval.

Resolution 11-14, 2019; A Resolution Adopting a Sustainability Short Term Plan (Policy)

Trustee Loving asked about the County's Build Smart Policy which was included as an option for adoption in the Sustainability Short Term Plan. He does not agree with adopting the County's Build Smart Policies.

Trustee Yahnke made a motion to approve Resolution 11-14, 2019; A Resolution Adopting a Sustainability Short Term Plan with the removal of the Boulder County Build Smart policies. Trustee Chezar 2nd the motion, which passed unanimously.

BOARD COMMITTEE REPORTS

Elysian Park (Vic/Michael)

Trustee Harris attempted to reduce the number of creatures that dig up and disturb the tailings in the park. He stated that they will make another attempt again in the spring.

ADJOURNMENT

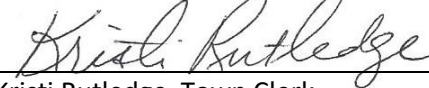
Trustee Yahnke made a motion to adjourn the meeting at 9:20 p.m. Trustee Brancato 2nd the motion, which was approved unanimously.

Approved,



Kenneth Lenarcic, Mayor

Respectfully submitted by,



Kristi Rutledge, Town Clerk

**The 11/4/19 Board Meeting was recorded in its entirety. Audio recordings are accessible by the public and are officially kept in the Town Office. They may also be kept on the Town Web site.*

Jese Engwall:

I would like to share my concerns of Jyoti's request for a 5' setback variance to build a 20'x18' carport. First, below are the bullet points under the town ordinance that I challenge she meets the requirements for the board to consider her situation.

Beginning with the first bullet point under the red text:

- o There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;
- o Because of these physical circumstances, the strict application of this ordinance would create an exceptional or undue hardship upon the property owner;
- o The hardship is not self-imposed;
- o The variance, if granted, will not adversely affect the use of adjacent property;
- o That the variance, if granted, will not change the character of the neighborhood in which the property is located and is in keeping with the intent of Town's Comprehensive Plan; and
- o That the variance, if granted, does not adversely affect the health, safety and welfare of the citizens of the Town."

In order to grant a variance, the Board of Trustees shall find that the following criteria have been satisfied:

1) There does **NOT** exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;

I believe a survey of the current property is necessary to prove this.

2) Due to above point, this does **NOT** exist - "undue hardship" there exists three places to park vehicles on her property, including an existing driveway and garage on the south side of the property, space for two vehicles on Main ST near front door, as well as the new "driveway" on the east side (location in question)

3) **"The hardship is not self-imposed"**. This nonexistent "hardship" is **PRECISELY self-imposed** due to her decision to already build an addition on the east end of her home. **"Must maintain the total 10-foot distance between structures on any lot or combination of lots under common ownership."**

4) **"The variance, if granted, will not adversely affect the use of adjacent property;"** Both my property and the Williams' are adjacent properties. This would affect my property because it would eliminate the already reduced view (due to her addition) of the creek from my house and would devalue my property.

5& 6) **"That the variance, if granted, will not change the character of the neighborhood in which the property is located and is in keeping with the intent of Town's Comprehensive Plan; and**

o That the variance, if granted, does not adversely affect the health, safety and welfare of the citizens of the Town." A carport would be an eye sore behind the new beautifully done community garden and open space.

Kindly,
Jese

Mark and Colleen Williams:

October 29, 2019

Dear Town Board:

This letter is to express our concerns regarding the request for variance from Ordinance 3-1, Series 2019 for 175 Main Street. We appreciate that the house across the street from us is finally being rebuilt, as it has been a constant reminder for 6 years of the trauma our community experienced during the 2013 flood. Town land belongs to all of the citizens of Jamestown. We have already sacrificed communal land for the sole purpose of constructing a septic system for this property owner. Prior to the flood, the Little Jim Creek land was a valuable wetlands that helped to filter out heavy metals from Little Jim Creek before entering James Creek. After the flood, the wetlands were not replaced and the land was sold to the property owner requesting this variance. This communal land was also used by residents to access Little Jim Creek and walk to the waterfall. This is no longer available to our neighborhood.

The ordinance was developed by a group of dedicated citizens who wanted to provide guidance on how we build in the future with regard to property lines and setbacks. It provides a minimal requirement of setbacks compared to other towns and cities. It requires 10 feet between structures and a 5-foot setback to the property line. Perhaps the owner of the property should have thought of this prior to expanding the footprint of the house to the east.

The ordinance states that all of the following criteria must be satisfied to grant a variance:

1. "There exists exceptional or extraordinary physical circumstances of the property" – It is our opinion that the property east of the house does not have exceptional (def. – unusual, not typical) or extraordinary physical characteristics. It is flat, non-sloping, typical and large enough to park 2 cars without a variance.
2. "Strict application of this ordinance would create an exceptional or undue hardship upon the property owner" – What is the hardship? I am not sure what the hardship could be since cars can still park in that spot as well as 2 other sites on the property.
3. "The hardship is not self-imposed: - If not building a carport within the 5 foot setback is a hardship, then it is self-imposed. This is due to the decision to expand the footprint of the existing house to the east decreasing the size of the land in question.
4. "The variance ...will not adversely affect the use of adjacent property" – It is our opinion that the variance will affect the use of adjacent property. We use to have a neighborhood at this end of town with houses on both sides of the street. Due to the flood, we lost a large part of our residential neighborhood. As a result, the "West End Common Lands" became a Community Garden and valued open space along the creek. A grant from the Healthy Rivers fund paid for the revegetation of the land and JCWI volunteers helped to plant and maintain the vegetation. Building a structure within the 5 foot setback would require the builder to encroach on the adjacent town property during building and in the future to maintain the structure resulting in destruction of the vegetation.
5. "The variance, if granted, will not change the character of the neighborhood....and is in keeping with the intent of Town's Comprehensive Plan" – The property in question will be mainly used as a vacation rental with a small apartment downstairs for the owner. The variance is for a carport for the vacation renters. For an individual to intrude onto our community's open space for a business venture is not within the intent of the Town's Comp Plan and does not add to a neighborhood. The Comp Plan identifies a residential neighborhood as a single family development.

Prior to the flood, the property was used for a vacation rental. Although we are not opposed to vacation

rentals in town, we have experienced excessive noise during the night with car door slamming and loud talking while we were trying to sleep. These folks are on vacation and are not neighbors. I do not believe that this behavior is neighborly.

Other things to consider include the Fire Code (IFC) that says that fire hydrants must have a minimum of 50 feet from a building or structure. In addition, it is illegal to park within 15 feet of a fire hydrant along the street. There is a fire hydrant close to where the carport is proposed.

This property, like others, can change hands. So, the decision should be made in the best interest of the community rather for the individual.

With Regards,

Mark and Colleen Williams

Jyoti Sharp:
Dear Town Board,

I understand that there is opposition to a carport from a few of my neighbors. My preference would have been to talk this out with my neighbors in person or by phone before we got to a place of such formalities before the Board, and I attempted to do so.

I'll begin this letter by clarifying that this public hearing is not about whether or not I can build a structure on the east end of my home. That decision rests with the Boulder County Land Use Department, and the Town of Jamestown, through the permitting process. The question before the Board is about a few extra feet to optimize the size and placement of a carport structure on my property.

It's my understanding that the original intent of Ordinance 3-1, 2019 was to ensure neighbors don't build structures too close to one another, and even more importantly for safety... to provide access for fire equipment between structures. An unintended consequence of this ordinance is the impact to property owners such as myself who are now adjacent to town property where no structures can ever be built... property owners who, like me, are trying to make the best of the limited land we have left. I once had a fully landscaped yard, with countless trees, a cherry orchard, a fire pit and rock walls lining beautiful paths around my home and down to the creek. I personally lost so much useable land that I need to utilize every square foot of space I have left. My guess is there are others in similar circumstances.

Another unintended consequence of this ordinance is that now the question of what I can do on my own property is open for public comment. Thus here I am standing before you tonight defending my right to build a structure.

With all that said I'd like to reiterate the reasons I stated at the town meeting last month regarding the rationale for building a carport. These reasons are all of equal importance to me.

1) Reason one is to get visitor parking off the street and onto my property.

There is often somewhat of a "funnel" of traffic on the west end of town. There are space limitations between my home and Jese's if vehicles are parked on both sides of the street. A few days ago a neighbor told me he was traveling west in front of my home and had to pull over behind Jese, who had her door car door open, to allow a snow plow coming down from Overland to pass.

Before the flood there was room to park two vehicles vertically in front of my home. Now there's only space for one vehicle to park parallel as the street is wider and thus closer to my home than it was before the flood. If two vehicles park vertically facing the house the backsides of the vehicles are now abutting the street.

Even when there was room for two cars it was always an ice rink in the winter with snow melting and refreezing from Overland Road and ending up in that parking space. It's an ice rink at this moment. Also, in the past (according to stories I've heard), a vehicle coming down from Overland lost control during an ice storm and landed nose up on my front porch!

2) Reason two is flood mitigation.

My plan is to eliminate that parking space in front of my home altogether and carry the low level rock wall and landscaping on the west side of the house around to the front door and beyond to the east side. The purpose of this low level wall and landscaping would be to redirect the flow of rain water to the east side of my home and down to the creek. Whenever there are heavy rains there is minor street flooding, and the water comes down Overland straight toward the front (north side) of my home. The night of the flood those rock walls saved the west side of my home, but flood waters dangerously threatened the north side.

Note: Regarding 1) above... getting visitor parking off the street... the low level rock wall would also provide protection for the house from cars coming down Overland if they lose control.

That parking space in front of my home never looked or felt quite right to me from an aesthetic point of view. I believe it would be more appealing and inviting if there was landscaping wrapping around that whole northwest corner of my home on the corner of Ward and Main. I can imagine it being a beautifully landscaped welcome to town from the west.

3) Reason three is to provide a privacy buffer on the east side of my home.

Before the flood there were trees, homes and a cherry orchard between my home and the post office, which buffered traffic coming up Main Street. Now my home feels too exposed to the street, the lovely community garden, and adjacent open space. I do not want nor do I plan to put up a fence to provide privacy. A carport would provide enough of a buffer without completely cutting off the view of the creek for myself and my neighbors.

Lastly, I've already paid a structural engineer for the design of a carport and Flatirons Survey to mark the boundary between my property and the town property to the east. There are 27 precious feet between the edge of my home and town's property. The carport design is 20'x20'. With the 5' setback required by this ordinance there would only be 2' left between my home and the carport for a walkway, which isn't enough. The carport could be a few feet smaller, in which case I wouldn't need a setback variance, but my preference would be 20' wide and a few more feet between the carport and my home. Thus the reason for my request for a setback variance.

I understand from direct experience that changes can be distressing and even traumatic, and therefore I'm sensitive to the impact they will have on my neighbors. None of us asked for the rains that brought so many changes. Some of these changes have brought benefit to the town and to my neighbors, but lest any of us forget... these benefits came at a price. The beautiful community garden and open space between my home and the post office are the result of devastating losses to two of my neighbors.

I understand why my neighbors are attached to the creek view as it is, since I spent two years looking for property on a creek before finding my home and community in Jamestown. But the rebuild of my home was always a possibility and now, after countless obstacles including this one, it's finally happening. I also (sadly) understand that the rebuilding of my home has potentially been a "loss" to my neighbors across the street, as it severely cuts off their view of the creek.

My hope is to build a structure that will satisfy the needs I've stated above, with a minimal footprint in order to minimize impact to my neighbors (as opposed to a more solid structure like a garage, a shed or a fence). The carport design is "open", with basically a few posts and a roof, and is in keeping with the neighborhood. The look would be a larger but similar version of the mini pavilion in the small park across from the Town Hall. Hoping to top it with a terra cotta red metal roof.

I'll end by restating what I said at the beginning of this letter... that this public hearing is not about whether or not I can build a structure on the east end of my home. The question before the Board is about a few extra feet to optimize the size and placement of a carport structure on my property.

Thank you for considering my request for a setback variance.

Kindly,
Jyoti