STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES

THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

04 JANUARY 2016
7:00 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. JOSEPH ASCIOLA, Chairman
MR. BRUCE KOGAN, Vice Chairman
MR. DAVID SIMOES
MR. TONY BRUM
MR. STEVEN M. HUDAK, Alternate
MR. CHARLIE BURKE, Alternate

ALSO PRESENT: ATTORNEY ANDREW TEITZ, Town Solicitor's Office
MR. EDWARD TANNER, Zoning Enforcement Officer
MR. RICHARD PIMENTA, Building Official

Susan E. Andrade
91 Sherry Ave.
Bristol, RI 02809

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The regular meeting of the Town of Bristol, Rhode Island Zoning Board of Review was called to order at 7:00 p.m. by Chairman Joseph Asciola.

1. Approval of minutes:

07 DECEMBER 2015

X X X X X X

MR. RAPOSA: Motion to accept the minutes of the December 7 the meeting.

MR. Brum: Second.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Minutes Accepted)

Due to a family medical emergency, Chairman Asciola stated they would take Petition No. 2016-06 first.

2. 2016-06
BETH & PETER GRESH **4 Franklin St.: W**
d/b/a Grasmere **Pl. 9, Lot 4**

Dimensional Variances to install a freestanding commercial sign at a size larger than permitted, with less than the required ground clearance, and with less than the required setback from the front property line.

Mr. and Mrs. Gresh presented the Petition to the Board. Mrs. Gresh stated they were looking for a sign variance for their new location at 4 Franklin Street. They have an existing sign from their Barrington location, which doesn't meet the zoning requirements. The sign has been approved by the Historical Committee as it stands.

In response to questioning by Mr. Kogan on the distance from the ground, Mr. Gresh explained that the trellis would be stuck into the ground, so it would be approximately 2 feet off the ground and the upper portion would be as presented on the plans submitted. As plans submitted, the sign would be located in the garden area, sitting at the edge of the garden, 1’ off of the sidewalk. The sign face is 3' 2" square, which would be 9.33 square feet of area for the sign. The illumination will be two spot lights from the bottom and will only be lit until approximately 9:00 p.m.

The Board reviewed the plans in detail with the Petitioner's.

Mr. Stephen Brigidi, owner of the property spoke in favor of the Petition and read a letter of support into the record and submitted to the Board and filed.

Mr. Tanner stated that he and Mr. Pimenta have calculated the sign to be 10.02 square feet.

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MR. ASCIOLA: Would anyone else like to speak in favor? Would anyone like to speak against? Can we have a motion from the Board, please?

MR. KOGAN: Mr. Chairman, I'm going to make a motion that the applicant's request for Dimensional Variances in connection with the proposed sign at 4 Franklin Street be granted. The variances that I would move that we grant with respect to the sign are, first with respect to the area, the square footage of the sign. The Ordinance requires a 6 square foot maximum; and the existing sign that the applicants are moving here, as calculated by the Building Inspector as 10.02 square feet, which would require, and I'm going to move that we grant a 4.02 square foot variance in the area size of the sign. The sign ordinance also requires that a free-standing sign be located no less than 6 feet off of the ground in height; and the applicant is proposing 2 feet in height, which would require a 4-foot variance and I would move to grant that. The setback for a sign from the property line for a free-standing sign is no less than 5 feet under the ordinance; and the applicant is proposing to install the sign at 1 foot from the property line. I am also going to move that we grant that variance, which would be a variance of 4 feet from the required setback. And the reasons for that variance are that there is existing a hardship due to the unique characteristics of the subject land and structure and not the general character of the area. This part of Franklin Street is a mixed use area, with older buildings, including the building at 4 Franklin Street, which were built before the ordinance and have a variety of signage for the different businesses in that area. What the applicant is proposing is a solution to having the business be identified to potential patrons; given

that it sits back a bit from the street and that it is on the side street; so that signage would be difficult to be perceived at this particular location. This hardship is not the result of any prior action on the part of the applicant. The applicant did not build the building, nor locate the building at its current distance from the street. Nor did the applicant install the little raised garden in front of the property, which is still part of the existing location. This hardship is not due to any economic disability on the part of the applicant or any desire to realize greater financial gain. The Board recognizes that the applicant is in business and does seek to operate a profitable business; but the variances that the applicant is requesting are minimal and are in keeping with the existing small, unique shops that are in that area of Thames and Franklin Street. Granting the requested dimensional variance will not alter the general character of the area. As I said before, this is a mixed area of some residential properties and some commercial properties. This location has been a commercial property for many years, with an over-sized sign, which happens to be attached to the building.... Or it was previously attached to the building, I think it's been moved at this point. And having commercial signs for the businesses are particularly tasteful and unobtrusive ones as the applicant is proposing will not alter the general character of the area. Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan, which seeks to foster a mix of uses within the community that are healthy and harmonious; and bringing this already existing successful business from Barrington to Bristol, is part of what the Town's Comprehensive Plan seeks to do. The relief requested, and which I would move that we grant, is the least relief necessary in order for

the business to be appropriately identified to potential patrons. And the applicant would suffer more than a mere inconvenience, were we to deny the requested dimensional variances. So for those reasons, I move that we grant the variances that I outlined in the beginning my exposition.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

Mr. Brum and Mr. Simoes stepped down and Mr. Hudak and Mr. Burke sat on the Board.

3. 2015-36 - Continued
JAMES BRAY **46 Everett Ave.: R-10**
Pl. 122, Lot 66

Dimensional Variances to construct a 9' 6" X 24' addition to an existing accessory garage structure with less than the required front yard on a corner lot.

Chairman Asciola acknowledged that the Board had received the site plan that was requested at the previous month's meeting from Mr. Bray.

Mr. Kogan reviewed the information from the previous meeting and stated that Mr. Bray has a garage that sits close to the road in front of the house on Everett Ave.; and that existing garage is a one car, relatively small garage. Mr. Bray confirmed that he previously used the property as a seasonal use property, but he now plans on living there year round. And that in order to accommodate living there all year, he needs to bring in equipment, which are not presently able to be stored in the existing garage, along with his car. His proposal is to build a lean-to type shed up against the existing garage. The existing garage is already located only 12 feet at the closest point of the property line on the south side and on the north side it's 16.7 feet from the property line. Mr. Bray confirmed that he would continue the western line of the garage for the shed, so that the front would be falling away from the property line; and that it would go from 16.7 feet from the property line to 20.2 feet, as depicted on the site plan. The size of the shed is the depth of the garage, 24 feet deep by 9 1/2 feet.

The Board reviewed the site plan and Petition in detail with the applicant.

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MR. ASCIOLA: Would anyone like to speak in favor? Would anyone like to speak against? Can I have a motion from the Board, please?

MR. HUDAK: I'll make a motion to approve the applicant's Petition to construct a 9 1/2 X 24 foot garage, with less than required front yardage and left side yardage. In support of the motion I would offer that the hardship from which the applicant seeks relief is due the unique characteristics of the subject land and not the general character of the surrounding area, or the economic disability of the applicant. This property sits on a reasonably narrow lot with an existing garage, which is less than accommodating for the applicant's needs. And the way that the lost is comprised is there's little room to construct an addition without this variance. The hardship is not the result of any prior action of the applicant and it does not result primarily from the desire of the applicant to realize greater financial gain. This property was passed down from his father and through the family for many years. The applicant did not build the structures on the property and the applicant is not seeking financial gain with the addition of this garage. The granting of the requested variance will not alter the general characteristics of the surrounding area, or impair the intent or purpose of this Chapter. The existing garage that exists is perhaps undersized, which only allows for one car and not enough room for additional storage. So in creating a garage slightly larger will not alter the general characteristics of the surrounding area. The relief to be granted is the least relief necessary. Based upon the design plans, I believe that what is being offered is the least relief necessary and is not being oversized. And it would amount to more of a mere inconvenience if not granted, because the limited use of the applicant, as stated in the record, he does not have enough storage for more than one car and additional items that

he needs to live there year round. So, for these reasons, I move that we grant the applicant's request.

MR. KOGAN: Second.

MR. ASCIOLA: All in favor?

MR. HUDAK: Aye.

MR. RAPOSA: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BURKE: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(The Petition was approved)

4. 2015-40 - Continued
MARILYN MOTT TOLLESON **5 Old Ferry Rd.: R-40**
Pl. 167, Lot 48

Ms. Tolleson presented her Petition to the Board. Ms. Tolleson stated she's in a 25 feet to try to hardtop the canvas structure, which is up there now. She presented a revised sketch that was submitted at the previous month's meeting. She was under the impression that her property was two parcels and three easements; and it is actually three parcels and two easements, which does make a difference. She presented her deed, which describes in detail all the dimensions. She knows she sounded a little confused at the last meeting, but the way the existing deck sits, there's just a slight angle to the property line; so one end is 12 feet and the other end is 10 feet. So, when it's all said and done, her closest point will be 10 feet from the property line, so she's asking for a variance of 15 feet.

Ms. Tolleson submitted a new photograph, which marked as Exhibit A. A new version of a plot plan, which marked as Exhibit B. And a photocopy of a Deed with deed description, which was marked as Exhibit C.

Ms. Tolleson explained in detail how she found the granite marker and measured out her property in detail with the Board.

The Board explained that even though the plans that were submitted at this meeting was a little bit more descriptive; however they had requested a professional site plan, or at least a well-prepared site plan, be submitted and suggested that the applicant request another continuance in order to provide them with the requested information.

Ms. Tolleson requested a continuance until the March meeting.

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MR. RAPOSA: I make a motion that we continue the applicant's request to the March 7th meeting.

MR. ASCIOLA: Second. All in favor?

MR. RAPOSA: Aye.

Mr. BURKE: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued)

Mr. Raposa and Mr. Burke stepped down, Mr. Simoes and Mr. Brum sat on the Board.

5. 2015-39 - Continued
MARILYN MOTT TOLLESON **371 High St.: R-6**
Pl. 12 , Lot 70

Dimensional Variance to construct a 12' X 20' addition to the rear of an existing three-family dwelling with less than the required left side yard.

Ms. Tolleson presented her Petition to the Board. She explained that the picture in her packet shows the rear of the house on High Street; next door to it is Lima's Funeral Parlor. She pointed out the second floor galley kitchen, below it to the right is an efficiency apartment. The building is a registered three-unit. She would like to make the efficiency more livable, bigger; it's very small. The hardship is that they either end up with a faster turnover or people who have difficulties and then they don't the rent. She thinks if it were bigger, normal and more livable, it would be much easier to deal with. The distance between buildings is 8 1/2 feet; Mr. Lima has a fence 3 feet from the property line and he has a 40-foot two-story addition, which runs the whole length of it. Her existing house is 5 1/2 feet from the property line, and she is asking for a 4 1/2 foot variance. It will not go any closer, it will just pull further down towards the back yard. The property has been in her family for four generations, it was built in 1792 and it needs work.

The Board reviewed the Petition in detail with the applicant.

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MR. ASCIOLA: Would anyone like to speak in favor? Would anyone like to speak against? Can we have a motion from the Board, please?

MR. KOGAN: Mr. Chairman I'm going to make a motion, that the applicant's request for dimensional variance that would enable her to build a 12' X 20' addition to the rear of her existing three-family dwelling within 5 1/2 feet from the left

side property line, south side property line, be granted, which would necessitate the Board granting her a 4 1/2 foot variance when it normally require a 10 foot setback in an R-6 zone. And the reasons for that proposed variance are that there is a hardship arising due to unique characteristics of the subject land and the structure that sits there upon and not the general character of the surrounding area. This property which Ms. Tolleson testified has been in her family for four generations already is very close to the property line; the existing house is 5 1/2 feet from the left side, or south property line. The property adjacent to the south, Mr. Lima's Funeral Parlor business, is also very close to the property line. Both are close to the property line because in this portion downtown historic Bristol houses were built on smaller lots and were built closer lines than the current zoning requires. This hardship is not the result of any prior action on the part of the applicant. The applicant didn't build the building herself; I'm sure whether her ancestors did, or whether it's been in the family a long time; that she herself did not locate the existing building that close to the south property line. And her proposal to add a small addition to the rear is not any further encroaching into the side yard setback then presently. This hardship is not due to any economic disability on the part of the applicant, or any desire on the applicant to realize greater financial gain. The applicant testified that the property is a lawfully existing three-family dwelling and that the limited size of this third efficiency unit is producing an instability in its tenancy, which is not helpful to the stability of the neighborhood, which would benefit from tenants who would stay for longer periods of time as a common part of the community. Granting the requested dimensional

variance on the side yard will not alter the general character of the area; this portion of High Street is mixed commercial and residential uses and the applicant is only planning to continue her present residential rental use of the property. Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan, which envisions along High Street mixed use of commercial and residential uses. The relief being requested is the least relief necessary; it is not further encroaching into the required side yard setback. And if any addition were to be built at that location, it would have to, in order to conform to the building.... Dimensions would have to impinge somewhat into the side yard setback. It would amount to more than a mere inconvenience were the Board to deny the requested dimensional variance, because the applicant would probably not be able to make any correction to the small undersized efficiency unit that she testified to. So, for those reasons, I move that we grant the dimensional variance of 4 1/2 feet from the normal 10-foot side yard setback that would enable her to extend the building at a location 5 1/2 feet from the property line.

MR. HUDAK: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BRUM: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

6. 2016-01
JEFFREY MACOMBER **110 Mt. Hope Ave.: R-6**
Pl. 39, lot 39

Dimensional Variance to construct a 9' X 20' patio roof addition to an existing single-family dwelling with less than the required side yard on a corner lot.

Mr. Jeffrey Macomber presented his Petition to the Board. He explained that he was applying for a dimensional variance on his side yard lot, which is currently in an R-6 zone. He believes he needs 10 feet and the proposed structure is an open-air patio cover; that would go 3 feet into that setback. There is an existing patio that was in that area when he bought the house; it's like a poured concrete, which he'll cover in tile at some point. He was asking for a hardship because there's really no where he can go in his property without encroaching on some setback and that seems like the best spot to apply to put something. It's a small house that he lives in, about 1,024 square feet and if he has a family gathering in the summer it's really tight.

Mr. Macomber confirmed that he had already started to erect the structure and it will hang over the existing concrete pad probably 3 feet on the fence side of the property and on the other side it's about a foot hanging over the edge.

The Board reviewed the plans in detail with the applicant.

Mr. Ross Weene, 5 Fox Hill Ave, spoke in favor of the Petition. He stated that he have lived at 5 Fox Hill Avenue for seven years and is in full favor of Mr. Macomber's patio roof. He has seen the plans and discussed his intentions and feels it will be an enhancing addition to the property.

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MR. ASCIOLA: Would anyone else like to speak in favor? Would anyone like to speak against? Can I have motion, please?

MR. SIMOES: Mr. Chairman I'm going to make a motion that the applicant's request for a side yard dimensional variance of 3 feet be granted, that would enable

the applicant to construct a 9' X 20' patio roof addition to the existing patio. The hardship is due to the unique characteristics of the subject land and structure. This hardship is not the result of any prior action of the applicant. By granting this requested dimensional variance it would not alter the general characteristics of the area. The relief granted is the least relief necessary. By denying this request, the applicant would suffer a hardship more than a mere inconvenience whenever he has family or friends gathering at the home. Therefore, I move that this dimensional variance be granted, subject to the following condition. That no permanent sides be placed on the patio. He could put a plastic or something, like on a rainy day; but nothing permanent.

MR. HUDAK: I'll second.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

7. 2016-02
ALAN R. BULLOCK **71 Sowams Dr.: R-15**
Pl. 159, Lot 591

Dimensional Variance to construct a 9' X 24' front porch addition to an existing single-family dwelling with less than the required front yard.

Mr. Alan Bullock presented his Petition to the Board. He explained that he would like to put a porch on the front of the house, which would replace the existing steps. There are two entrances, the front entrance and a side entrance. He would like to take down the crumbling, unsafe steps and in its place, and not coming out any further than the house itself and the addition that's already there, it would encompass the area with the porch. It’s due also the fact that he's on an odd shaped lot and every time he does something he needs a variance.

The Board reviewed the plans in detail with the applicant.

X X X X X X

MR. ASCIOLA: Would anyone like to speak in favor? Would anyone like to speak against? Can I have a motion, please?

MR. SIMOES: Mr. Chairman, I'm going to make a motion that the applicant's request for a 9 foot dimensional variance that would enable the applicant to erect a porch with a roof and a new set of stairs on the southerly side as close as 21 feet to the property line. The hardship is due to the unique characteristics of the subject land and structure. The hardship is not the result of any prior action of the applicant. By granting this dimensional variance, it will not alter the general character of the area. Granting this will not alter the general character of the area. Granting this will not impair the intent of the Town's Comprehensive Plan. This would be the least relief necessary to solve the problem by having easier egress in the

event of fire emergency personnel using the front entrance. For these reasons, I move that this dimensional variance be granted.

MR. KOGAN: I'm going to make a motion to amend that, because I think you made a slight calculation error. The setback is 35 feet; 9 feet from 35 feet is 26 feet; to build within 26 feet. He thought he had a 30 foot setback.

MR. BULLOCK: No, no, I made a mistake, it's on my paper here.

MR. KOGAN: Yeah, it's a 9-foot variance, to enable him to build within 26 feet of the property line. Otherwise I will second; that's a request for a friendly amendment.

MR. SIMOES: Okay.

MR. TEITZ: Can I ask for a little bit more there on the findings and suggest that... Certainly this is a case that has an unusually shaped lot; this lot is unique because it's unusually shaped. And you've got the steep slope up to the front entrance way; both of which contribute to the hardship. Would you add that to your motion? You don't have to repeat it, you can agree to it or not.

MR. SIMOES: Oh, alright, I agree to it.

MR. TEITZ: And also as far as with keeping character of the neighborhood, noting that it is on... Even though the paper street continues, it is effectively at the end of a dead end street, which seems to become a wetland beyond this property. Would you agree to that?

MR. SIMOES: Yes, I agree.

MR. RAPOSA: I'll second that.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

8. 2016-03
RITA FURTADO CRABTREE, MANUEL FURTADO, JR., & KERRI R. FURTADO

148 High St.: R-6
Pl. 19, Lot 104

Dimensional Variance to construct a 24' X 30' accessory garage structure exceeding the maximum permitted size for an accessory structure in a residential zone.

Mr. Manuel Furtado, Jr., presented the Petition to the Board. He explained that he would like to build a garage in order to fit four cars and some storage area, as there is a tenant, himself, his wife and his mother.

Mr. Kogan questioned the size of the cars and expressed doubt that all four vehicles would be able to be stored in the proposed garage, as most cars are at least 15 feet in length. Normally accessory structures are 22' X 24', which would be a typical two-car garage. He's not sure the 30' length would give him the parking that he thinks he would have.

Mr. Furtado explained his 92 year old mother just moved in with them and she does have a car and does still drive. He would like to get as many of the vehicles in the garage and still have room to work or store other household equipment.

Mr. Kogan stated that the proposed dimensions seem out of proportion to the lot size. Mr. Furtado explained there would be 8 feet on one side and 30 some feet on the other side. Mr. Kogan stated it's not a question of setbacks because an accessory structure only needs to be 6 feet from the side and back yards; it just seems like a very big garage; especially in that area.

The Board reviewed the plans in detail with the applicant. The garage would be 17 feet high and the upper portion would be used for storage. Mr. Furtado presented three letters from abutting neighbors in support of the Petition. Chairman Asciola

accepted the letters into the record from abutting property owners, Mark Hinken, John Furtado and Gus Nunes.

Mr. Tanner stated in regards to lot coverage in an R-6 zone you can go as high as 30% lot coverage and with the addition of this garage Mr. Furtado would be at 26%.

Discussion was held on the variance request from the normal accessory structure maximum size in the Ordinance 22' X 24', which is a normal two-car garage with a little bit of extra storage. Sometimes people may have particular needs where the Board has given them leeway; however, Mr. Kogan stated that this is big on a small lot; to him it's a question of proportion in an R-6 zone. However, if nobody else is bothered with it, he could go along with it, because of Mr. Furtado's statement of needs. Mr. Burke stated that he agreed with Mr. Kogan and didn't see the rationale of the 30 foot depth. Mr. Raposa suggested a 22' X 24' and build a shed for storage. Mr. Asciola suggested 24' X 28' or 26', which would give him some room for storage.

X X X X X X

MR. ASCIOLA: Would anyone like to speak in favor off the Petition? Would anyone like to speak against the Petition? Can I have a motion, please?

MR. KOGAN: I'll make a motion to and see how the Board votes on it; that the applicant's request for a dimensional variance, with regard to the maximum size of an accessory structure, be granted in part. That would enable the applicant to build a 24' wide by 26' deep accessory garage structure. This would entail a variance of 2 feet beyond the normal 22 feet wide; and enable him to build 24 feet wide; and 2 feet beyond the normal 24 foot depth; and enable him to build 26 feet in depth. And the reasons that I would make that motion are that there exists a hardship due to unique characteristics of the subject land and structure and not the general character of the surrounding area. The general character of the

surrounding area is mostly residential; though there are some commercial within a few blocks of there, but largely residential. And that what's unique about this is the applicant's lot is only approximately 6,500 square feet, a width of 46 or 47 feet in width, but a very deep lot of 186 feet deep. What's also unique is the home is built up towards the front portion of the property and there is no accessory garage built at all on this property, and has never been one. So, the necessity of some sort of storage for automobiles and the other equipment and items that the applicant has testified to without that storage it would be a hardship. This hardship is not the result of any prior action on the part of the applicant. He didn't lay out this narrow lot, nor did he build the house originally on the property. Although he has owned it, according to his application, for quite a while. This hardship is not the result of any prior action on the part of the applicant and in part the hardship arises from some changes in family composition; the applicant is now going to be helping his mom out by having his elderly mom also live with him at this property. This hardship is not due to any economic disability on the part of the applicant, or any desire to realize greater financial gain. Rather, his request for the variance is normal in order to accomplish storage for motor vehicles and a reasonable amount of extra storage. Granting the requested dimensional variance will not alter the general character of the area; this is in the downtown area and many of the lots are small, many of them have accessory structures that are garages set into the rear; this will be completely consistent with the general character of the area. Granting will not impair the intent of the Town's Comprehensive Plan, which is intended to make Bristol a reasonable place to live and have a quality of

life and residence. The relief requested by the applicant was actually not actually not the relief that he asked for, we're not giving him what he asked for, and we're giving him less than that. But, I believe it is the amount that is necessary to accommodate the needs that the applicant has specified. Were we to deny this requested variance, it would amount to more than a mere inconvenience; the applicant would not have a garage in which to place at least two of the cars of the household in inclement weather. And with an elderly mother living there, that seems like that would be more than a mere inconvenience. So, for those reasons, I move that we grant the variance to enable the applicant to build a 24' X 26' garage.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted, as amended)

9. 2016-04
PAULA J. MARTEL **1059 Hope St.: R-10**
Pl. 82, Lot 4

Dimensional Variance to construct a 26' X 28' accessory garage structure exceeding the maximum permitted size for an accessory structure in a residential zone.

Ms. Paula Martel presented the Petition to the Board. She explained that she would also like to build an accessory garage; to store her two SUV vehicles and other odds and ends they use around the home. There is presently a shed in the rear of the yard. Her property is 62 feet wide and 364 feet deep; and the garage would be back approximately 35 feet from the house. It would actually replace a garage that was on the property and torn down. They have new equipment that needs to be stored that they purchased to maintain the large property, as they are getting older the equipment was necessary in order to be able to stay living at this property. The height was more for aesthetics than anything; there will only be a pull down ladder to access the storage area above the garage.

The Board reviewed the Petition in detail. Mr. Kogan expressed that some of the reservations he had with the previous Petition at only 6,500 square feet, he does not have with this approximately 22,000 square foot lot; as this Petition does seem more in proportion. The height of 24 feet being proposed is higher than the normal height, which is 20 feet. He asked if the way the Petition was advertised as just square footage and not height would be a problem. Mr. Tanner stated it was advertised as maximum size. Mr. Tietz stated that he did look at that and thinks that because the garage has its own limited size; it's not over the height limit for the district, it's just that accessory structures

have their own height and thinks it is advertised sufficiently; that it meets the minimum requirements for advertising. Mr. Asciola noted that the cut sheet for the garage says that the maximum ridge height is 22' 8". Ms. Martel stated that she also noticed that after she filled out the application. She stated that with the foundation, she wanted to make sure that she requested sufficient height.

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MR. ASCIOLA: Does anyone want to speak in favor? Does anyone want to speak against? Can I have a motion from the Board, please?

MR. KOGAN: Mr. Chairman, I'm going to make a motion that the applicant's request for a variance to permit the construction of a 26' deep by 28' wide accessory garage structure, with a maximum height of 24 feet, be granted; and that would entail variances with regards to the size of the accessory structure of 4 feet in depth and 4 feet in the width, because the maximum is only 22' X 24'. And also 4 feet on the height, since the maximum height allowed is 20 feet and the applicant is proposing 24 feet in height. The reasons for the variance are is that there is a hardship due to unique characteristics of the subject land and structures, and not the general character of the surrounding area. The general character of the surrounding area is entirely residential, except just to the north of this property is the entrance into Colt State Park, the Town beach and the North Burial Ground. All of that does create a unique circumstance, as does the generous size of the applicant's parcel, which is approximately a half an acre, around 22,000 square feet. What is unique about the structures is that this substantial home on the property has no garage at the moment. And that does create a hardship to the applicant for normal family use and for the

storage of equipment to tend to this large lot. This hardship is not the result of prior action on the part of the applicant. The applicant didn't build this house without a garage. The house was probably built at a time when most families didn't have garages, but now they do and the applicant is only seeking to build a garage of reasonable size for this proposition of the home and the lot itself. This hardship is not due to any economic disability on the part of the applicant or the desire to realize greater financial gain. Rather than to suit her needs to have a reasonable amount of storage for this substantial size of the property. Granting the requested dimensional variance will not alter the general character of the area. Many of the homes along this part of Hope Street have large separate garage structures located as the applicant is proposing to locate to the rear of the property. Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan, which envisions opportunity to have reasonable homes with accessory structures. The relief requested is the least relief necessary, given the size and proportion of the property. Whereas an accessory structure this large on smaller lot might not be necessary or permissible. In this instance it seems to be appropriate. It would amount to more than a mere inconvenience were us to deny the requested variance. For those reasons I move that we grant the requested size and height variances.

MR. HUKAK: I'll second.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

10. 2016-05
CHRISTOPHER S. & KATHLEEN W. WALDEN — **44 Anchorage Ct.: R-15**
Pl. 133, Lot 123

Dimensional Variance to construct a 14' X 11' and 2' X 29' rear deck addition to an existing single-family dwelling with less than the required rear yard.

Mr. And Mrs. Walden presented their Petition to the Board. Mrs. Walden stated that they currently have a 5 1/2 bump out of their upper deck with a setback of 20 feet. What they are looking to do is to increase that setback by 2 feet, which would be 7 1/2 feet of the 20 feet; so they were looking to go from the deck out 37.5%.

Mr. Walden stated that their home on the Kickemuit River abuts open land behind them with a detention pond and then a view down into a treed area to the water. The homes in that area are all along a private driveway and all have substantial decks looking out towards the water. Over the 15 years that they have owned the home, obviously a wooden structure being near the water, it rots; and as a larger project that they undertook, building a patio as well, it made sense for them at that time to work on the deck as well. They commissioned an architectural plan, which was submitted to the Board. So the deck would span from the current 29 feet across the back of the house and add another 14 feet and expand the entire rear of the house. The variance that they were requesting, specifically, was the 2 feet that would extend out from the LVL beams that they had specked and constructed and would canter lever 2 feet out over the end of the LVL beams.

Mr. Walden presented pictures to the Board showing what the property looked like existing, which was accepted by the Board and marked as EXHIBIT A.

Mr. Walden continued and explained that again due to the degradation of the deck, and other homes in the area that have larger decks, deeper decks; they have a growing family. When they have tried to entertain in the past with any kind of a group,

the community is kind enough to offer the opportunity to use common land. But, frankly, because they had no legitimate flat space in their backyard, or a deck that only spans 5 1/2 feet from the back of the house in the bump out portion of the house, it was difficult. They would have to use the common land to do any form of entertainment with no privacy. So they wanted to attempt to address that as well.

The Board reviewed the Petition in detail with the applicant's.

Mr. Tanner stated to clarify a few things, Mr. Walden dropped off some additional information that was in front of the Board; it didn't have a date, but it was stamped in on January 4, 2015. It had some photos attached and the re-evaluation pages on the neighboring houses and some photos of the deck as it stand there. There was also a letter from a neighbor.

Chairman Asciola read the letter of support from abutting neighbor's to the south, signed by Alan and Pamela Smith, 42 Anchorage Court.

Mr. David Gagnon, 29 Smith Street, President-Elect of the Kickemuit Association Homeowners Board of Directors stated that the Board has many concerns about the construction that has been going on this summer and extended to the present time, of the applicant. First they did not get the authorization from the Board, as required in the Covenant, which is filed with the Town of Bristol, 1994, which states that no owner shall without prior consent of the Directors make, or permit to be made, any structural alteration, improvement or addition to the exterior of his home; nor impair any easement or right for personal property which is part of the Kickemuit Anchorage homes. So, that was never received by the applicant. The deck is built upon a patio and is substantially built this summer that is a very large patio that infringes upon the common property by over 200 square feet. They have actually built into the property that they don't own, which is owned by the 14 landowners who represent the Kickemuit Anchorage Homeowners Association. This has, in effect, cut off the waterfront access to any

properties. Thirdly, at the time of construction, they do not believe that they had the necessary permit to begin the construction of the stairs and the deck that they began this summer. They also are fairly certain that they do not have a permit for the retaining wall, which is over 4 1/2 or 5 feet and does meet, or should meet the permission of the Town for such a structure, according to the Zoning requirements of the State and the Town, over 32 inches in height. Anything else than that needs to have approval from the Town. Finally, they are very upset as a Board, because they have asked at least on three occasions that they submit a signed survey update of their site, so that they can determine how much land was taken from the common land in building this construction. He believes there are many other people present who are not in favor of this and for that reason they are opposed at this time to allowing the variance on the basis of these issues, until they are affectively resolve equitably by the applicant.

Mr. Kogan asked if they realized that the Zoning Board doesn't have jurisdiction over a lot of what thief complaints are. Mr. Gagnon said he understood, but the deck and the patio are tied in together, so that really, before they can move to build the deck that's tied to the patio, they, in fact, need have some issue settling with the homeowners on the basis of the patio and the deck, which, in fact, also moves into the homeowner's property.

Mr. Kogan explained that was not the testimony. The applicant testified and the staff report from the Code Enforcement Officer indicate that the deck is within the property of the applicant and that he's looking for a setback; not to encroach into property that he doesn't own. If in fact, Mr. Gagnon is accurate that the applicant has encroached upon common areas, the quorum that Mr. Gagnon raised that in is not the Zoning Board, it's either an appeal on the issuance of the permit, if he has a permit. At this time, the Zoning Board is only asked to adjudge whether or not it's appropriate to grant him a 2 foot variance with regard to the rear yard setback; that's all that's before

the Board at this time. And Mr. Gagnon is raising lots of issues about homeowner's association governance and whether the applicant's acted in a way that illegally appropriates other people's property; that's not before the Board at this time.

Mr. Gagnon stated that the problem is that the deck itself is part of the patio; and the result is if anything changes with the patio itself, then the deck is affected. Mr. Kogan explained that the applicant's may be building at their own peril, if in fact the homeowner's association takes whatever other legal steps they need to take to get them to stop them from doing whatever it is their doing. If the applicant is building a deck within their property, which is what they testified to and what the Zoning Enforcement Officer gave in the Staff report to that effect and the Board either does or doesn't give relief; that's all that's before them at this time.

Upon questioning by Mr. Tietz, Mr. Gagnon explained that everybody owns individual lots, but the common property is owned by each at one fourteenth. Mr. Tietz asked if Mr. Gagnon if he was saying that the Walden's deck itself is encroaching on common property; that they only have 5 or 6 feet to the property line. Mr. Gagnon said that the deck is part of a patio that is built into the common area. Mr. Tietz stated that they don't want to hear about the patio. Mr. Gagnon then stated that the distance from the common property to their deck; they have to get a variance for. Mr. Tietz asked if the deck itself is actually on someone else's property or just too close. Mr. Gagnon stated that with the variance it would be too close and confirmed that he was not saying it was on the common property.

Mr. Bill Toohey, 34 Anchorage Court, stated that one of the things that the Walden's said very clearly is that the deck is part of their larger plan; so their having a little hard time understanding because they say it's all one plan and now it's getting divided into two plans. What bothers him is this seems like one plan. There's been no communication on this thing, which is the root of this entire issue. They are trying to look

and find a solution that works for everybody. They think what they are trying to accomplish is to say, they'd like a little time to come up with a solution on this. They want it to work for everybody, they don't want to have people fighting with each other. There are a number of people in the association who are very upset with the fact that they haven't been communicated with; that they built on the common land and so on. They would like to see a postponement on the issue, tabling it till the next meeting, so they can actually the things that they've asked for repeatedly and haven't received, which is a survey showing where the common property has been taken over by their project.

Mr. Richard Harlow, 48 Anchorage Court stated he lives directly across from the Walden's on the cul-de-sac and he has no objection to what they're doing. And he agrees with the Board that this harangue that they're having on this other issue has nothing to do with this variance and he would hope the Board would see that and make their judgement based on their professional ability, instead of some food fight that's going on in Anchorage Court.

Mr. Anthony Santoro, 30 Anchorage Court, which is at the other end of the cul-de-sac, stated that he used to be the President of the Association, so he's been dealing with this issue for a while. The deck really has nothing to do with the patio in question. The beams have been there in the same spot. He doesn't have a problem with it and doesn't think there should be a problem with it. The deck is very small for that house. The setbacks were set where they were because of the rules and it really wasn't usable. And if they get two more feet on the deck, it will be a lot more usable.

Mr. Gagnon thanked his neighbor's for their honesty. He stated that they did inadvertently overbuilt a patio into some of the common land in the property by mistake. We feel badly about it, it was based on prior construction of a little bit of rip rap that the original builder had placed on the property. The variance request is based on a

surveyed property line that was surveyed on November 7th. There are so many different levels of surveys, they contacted Steven Murgo, who came out to the property, he found the markers and completed the survey. The variance request is to the property lines, not to any overage as suggested, as it exists and as it has existed for the past 15 years.

Discussion and instruction were given to the applicant's that it would be to their benefit to have an as-built survey completed and presented to the Town, which would ensure that the deck would be built legally within their property and a proper variance could then be considered.

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MR. KOGAN: I'm going to make a motion that we continue this matter until February 1st.

MR. HUDAK: Second.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued)

11. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. HUDAK: So moved.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. RAPOSA: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:50 P.M.)

RESPECTFULLY SUBMITTED,

_____
Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 04 JANUARY 2016

Date Accepted:_____

Chairman: _____