TOWN OF BRISTOL
ZONING BOARD OF REVIEW MINUTES

Monday, March 7, 2016

The following petitions were received and were heard by the Bristol Zoning Board of Review on Monday, March 7, 2016 at 7:00 p.m. at the Bristol Town Hall, 10 Court Street.

Members present: Chairman Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

Also present were: Amy Goins, Town Solicitor, Mary Ann Escobar, Court Reporter, Ed Tanner, Zoning Enforcement Officer and Richard Pimenta, Building Official.

APPROVAL OF MINUTES: Mr. Simoes made a motion to approve the minutes from February 1, 2016. Mr. Kogan seconded the motion. The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

CONTINUED PETITIONS:
2015-40 Marilyn Mott Tolleson 5 Old Ferry Road

DECISION: Ms. Tolleson appeared before the Board this evening. This was re-scheduled due to Ms. Tolleson having a survey of the property completed and submitted to this Board. This petitioner is requesting a variance to construct a three-season sunroom addition to the rear of her dwelling where currently there is a deck with a canvass canopy. The deck existed when she purchased this property in 1986 and was deteriorating. So in 1988 Ms. Tolleson re-built the deck to its original size and put a canvass canopy on it. Ms. Tolleson would like to extend that deck to put a three-season room for recreational use for her family. The sunroom will be a significant improvement to what is there currently and will make it easier for Ms. Tolleson to maintain during difficult winters and the like.

Mr. Kogan made a motion to grant this variance. Said motion is stated verbatim as follows:

"Mr. Chairman, I'd like to make a motion that the applicant's petition for a dimensional variance to erect a sun room addition and to extend a portion of the existing deck be granted that would enable the applicant to extend the deck and to erect the sun room addition to her property within 9 feet of the western property line be granted. That motion would require

the granting of a variance of 16 feet from the normally required 25 feet side yard setback in an R40 zone.

The reasons for that variance are that there exists a hardship due to the unique characteristics of the subject land and the structure thereupon, not the general character of the surrounding area. The hardship arises because the applicant's testimony was that she purchased this property which has a very irregular shape -- I'm not even sure how to describe that -- but it's many angles and odd dimensions, and that when she purchased it, there was already erected thereupon the house which had a deck that came to within 10.2 feet of the property line, and although the applicant has rebuilt that deteriorating deck, she did not up until this time extend that deck.

That house and the deck are already encroaching into the normally required side yard setback in an R40 zoning and it creates a hardship where she's required to conform to the 25-foot side yard setback since anything that she would do on the western side of her house and portion of the house would be encroaching in the side yard setback.

This hardship is not the result of any prior action on the part of the applicant. As was indicated already, the applicant did not build the house or locate it in its present location nor did she attach to the house the deck on the western

side of the house. There was a deck there when she purchased the house.

This hardship is not due to an economic disability of the applicant or a desire on the applicant to realize greater financial gain. Rather the applicant is attempting to gain a little bit of space in the home that is permanent as a replacement for her existing canvass awning which does not do well standing up to the weather that we have experienced over the last few years.

Granting the requested dimensional variance will not alter the general character of the area. This is an area that has large homes on large lots as is the case with Ms. Tolleson. Some of those homes have decks, some of those decks are enclosed so it is not A-typical or unusual to do what the applicant is seeking to do.

Granting the requested dimensional variance will not alter the general character of the area as indicated. It is a small enclosed addition on a large house in an area with large houses and doesn't seem to create any challenges for any abutting neighbors. The photographs that the applicant submitted depict the locations of the property line at the stone wall and it appears to be at least 100 perhaps several hundred feet in distance to the residential structure to the west of applicant's home.

Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan which encourages residents to maintain and improve their homes as part of creating a harmonious community within which to live and/or work. The relief which I'm moving that we grant is the least relief necessary because any attempts on the applicant's part to replace that awning structure with a more permanent enclosed sun room would encroach, and the applicant is looking for a reasonably sized sun room.

Were we to deny the applicant's petition for a variance, it would amount to more than a mere inconvenience. The applicant testified in January that maintenance of the existing canvass structure is quite a hardship and it has seriously deteriorated and in the winter causes significant maintenance problems.

So for all of those reasons I move that we grant the requested variance."

Mr. Hudak seconded The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

NEW PETITIONS:
2016-07 PAUL C and ALCIDA C. PACHECO 17 Orchard Street

DECISION: A letter was received from the Pacheco's requesting a continuance on this matter. Mr. Simoes made a motion to continue this matter to the April 4th meeting. Mr .Kogan

seconded. The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

NEW PETITIONS:
2016-08 NINA VESWANATHAN AND IAN BAXTER 62 Everett Avenue

DECISION: Mr. Hudak stated before this petition was heard that he handled the closing for these petitioners. He stated that he mainly represented the lender, although he did issue title insurance to them. Needless to say, Mr. Hudak feels that he will be able to hear this petition without any problems. The Chairman asked Ms. Nina Veswanathan and Ian Baxter if they would be okay if Mr. Hudak sat for their hearing. Ms. Nina Veswanathan and Ian Baxter stated they were fine with him sitting as a voting member. Ms. Goins, the town solicitor, agreed that there was nothing wrong with Mr. Hudak sitting for this petition.

Ms. Nina Veswanathan and Ian Baxter appeared before the Board this evening along with their architect, Rui Duarte. Mr. Baxter stated that they currently live in Cambridge, but have purchased this home to be a future retirement home. Currently they will use it on the weekends and on holidays. They would like to make improvements to the home. They have spoken with their current neighbors who they stated agree with and look forward to the home being improved upon.

Mr. Duarte stated that the project will entail constructing a trellis to the side of the house without any posts over the front door. They would also like to construct a free-standing trellis just to mark an entrance into their side and back yard. There is also an old wood shed on the property, which they would like to construct into an outdoor shower. They live on the water and would love to be able to take advantage of waterfront living with this outdoor shower.

Mr. Kogan made a motion to grant the requested dimensional variances. His motion is stated verbatim as follows:

"Mr. Chairman, I'm going to make a motion that the applicant's petition for a number of dimensional variances be granted. The first of those dimensional variances would be a front yard setback variance that would permit the applicant to erect a new roof over the entrance that would come the closest point to within 12 feet of the front or western property line.

The second of the requested variances would be a side yard setback variance that would enable the applicant to erect a free standing decorative trellis structure to within 8 feet 8 inches from the left side or northern property line.

And the third variance would be a variance permitting the applicant to erect a stall shower structure within it sounds like it would be zero would be abutting the property line, the fence on the property line.

So the front yard variance that I am moving that we grant at 12 feet from the property line will be a variance of 18 feet from the required 30 foot front yard setback in an R10 zone.

The side yard variance for the trellis structure at 8 feet 8 inches would be a variance of 1 foot 4 inches from the normally required 10 foot side yard setback in an R10 zone for a property with this width.

And the third variance for the shower stall structure would be a variance of 10 feet if that were to abut the fence that the applicant's testified they plan to erect replacing the deteriorating existing fence.

And the reasons for those various variances are that a hardship exists due to the unique characteristics of the subject land and existing structures and not from the general character of the surrounding area. The existing lot is trapezoidal in shape and the existing home which was built on the property

before the applicants recently purchased it is already encroaching into the side yard and front yard setbacks given that this is a neighborhood that initially was built with summer bungalows and small summer homes. So that the width of the lot is approximately 50 feet and although it has a depth maybe 100, 120 feet. It's a small lot and the home fills a large portion of the lot, and there was, at the time the applicants bought it, two existing sheds that are located very close to the north property line perhaps within six inches of them.

The hardships are not the result of any prior actions on the part of the applicant as I indicated. The placement of the home on this rather small lot pre-dated the applicants' ownership of the property as did the placement of the sheds, one of which the applicants are proposing to replace with the shower stall structure. This hardship is not due to any economic disability on the part of the applicant or any desire on the part of the applicant to realize greater financial gain. Rather, the applicants testified that they have recently purchased this home, they want to make improvements to its appearance, improvements to its utility and functionality. They immediately plan to use it as a vacation property since they are continuing to reside in the Metro-Boston area in connection with their employment. But they plan to make extensive use of this

on weekends in the summer and other vacation times throughout the year and eventually plan to use it as their retirement home.

The home as it exists has a very plain looking front which the applicants intend to improve by the installation of the decorative trellises and the front entrance covered roof area. They also expect to make recreational use of its location on the Kickemuit River by bathing in the river and want to have the ability to have an outdoor shower when they or their friends or family members come out to the river. The installation of the shower will facilitate that reasonable recreational use of their waterfront property.

Granting the requested dimensional variance will not alter the general character of the area. Many of the homes along Everett Avenue are placed close to the front property line and their locations also do not conform to the existing side yard setbacks. That's the result of this having been historically a summer cottage area and not a year round home area, and so it's smaller lots at the time that all of these areas was developed was normal. It's not normal now but the general character of the area is completely consistent with what the applicants intend to do with their improvement.

Granting the requested dimensional variances will not impair the intent of the Town's Comprehensive Plan which encourages homeowners to maintain and improve their homes. The

relief that the applicants are requesting is the least relief necessary -- although in the case of the shower stall it's the most relief one could ever imagine -- because of the odd traditional shape and small dimension of the lot is the least relief necessary to accomplish what they reasonably plan to do in the way of these exterior improvements.

The applicants would suffer a hardship amounting to more than a mere inconvenience. Unless this dimensional variance is granted, they wouldn't be able to make these reasonable exterior improvements. In fact, anything they do on the exterior of their home is likely to require variances now and in the future given the placement of the home on the lot but if the proposed improvements are reasonable as these are, it's likely they would be well received in the future.

So for those various reasons I move that we grant the requested variances."

Mr. Simoes seconded. The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

CONCLUSION OF ZONING BOARD OF REVIEW MEETIING:
The Chairman entertained a motion to adjourn. Mr.Hudak made a motion to adjourn. Mr. Acsiola seconded. The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Steve Hudak, Mr. Charlie Burke and Mr. David Simoes.

Whereupon the Bristol Zoning Board of Review meeting was concluded at 7:54 p.m.

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through10 are complete, true and accurate to the best of my knowledge, skill & ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 14th day of March, 2016.

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Mary Ann C. Escobar, RPR

My Commission expires: September 30, 2016.

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