

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES

THE ZONING BOARD OF REVIEW  
OF BRISTOL, RHODE ISLAND

11 JULY 2016  
7:15 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. CHARLIE BURKE, Alternate

ALSO PRESENT: ATTORNEY ANDREW TIETZ, Town Solicitor's Office  
MR. EDWARD TANNER, Zoning Enforcement Officer

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 7:15 p.m. by Chairman Joseph Asciola.

1. **APPROVAL OF MINUTES:**

**16 MAY 2016**  
**06 JUNE 2016**

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MR. ASCIOLA: The first order of business will be the approval of the Monday, May 16th Zoning Board minutes.

MR. SIMOES: I'll make a motion to that we approve the May 16th meeting minutes, as printed.

MR. BURKE: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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MR. ASCIOLA: We have one more set of minutes to approve; this would be approval of the June 6th meeting.

MR. BURKE: I have a couple of requests for additional input. On 32 Anchorage Court, there was conflicting testimony about a business being conducted out of the abutter's home. I believe that Vice Chairman

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Kogan specifically asked if income was being generated and the response was no; and that's not in here and I'd like to request it be added.

MR. KOGAN: My recollection, Mr. Burke, is that I did ask that question of Mr. Perry and his response was in the negative; that's my recollection.

MR. BURKE: Right, and I think it's relevant because we had conflicting testimony and I'd be more comfortable if it was captured in the minutes.

MR. ASCIOLA: Anything else?

MR. BURKE: Yes, on 643 Wood Street, when the request was made for the second sign, the oversized sign on the gable; the basis for that was the impact on business; a positive impact if they had the sign and a negative impact if... I asked the applicant if they had done any marketing analysis, or they had any basis for that assertion and they did not. And we did deny it, so I think we should add that in to show that they did not have a quantitative basis for making that request, or having the opinion that it was going to have any impact on their business.

MR. ASCIOLA: Well I guess we'll hold off on these minutes.

MR. KOGAN: Well, I'd like to make a request we approve them as amended, with the proposed amendments.

MR. ASCIOLA: Okay.

MR. BURKE: I agree.

MR. KOGAN: I make a motion that we approve the minutes with the amendments that Mr. Burke has outlined.

MR. BRUM: I'll second that motion.

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MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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**CONTINUED PETITIONS:**

**2. 2016-17  
GAIL STORMS**

**32 Anchorage Ct.: R-15  
Pl. 133, Lot 115**

Dimensional Variance to install a 6 foot high vinyl fence on top of an existing 2 foot high stone wall at a total fence height greater than permitted.

Mr. Kogan stated that four members of the Board, Mr. Burke, Mr. Simoes, Mr. Asciola and himself; also Mr. Tanner was present, did make a site visit to the location at 32 Anchorage Court on Friday, July 8th, to see in person the condition and the circumstances. Ms. Storms confirmed that she was not present at that site visit.

Mr. Kogan stated that Mr. Tanner indicated that he had met with Ms. Storms at the location earlier that week and had talked to her about the fact that members of the Board would be going on Friday, July 8th.

Ms. Storms indicated that she had nothing else to input, as long as everyone had an understanding to the situation. She did look into the cost of changing three of the existing panels and it came to about \$1,400.00.

Mr. Kogan stated that from the site visit he understood that view that Mr. Perry might have of the water that would be obscured by the 8-foot high fence that was installed would be on the northerly panels. He stated that they also went onto Mr. Perry's side of the property and observed his view.

Mr. Perry, abutting property owner, confirmed that it would be the removal of the top of the three most northerly panels that would improve his water view from his property, which he has enjoyed for over 50 years.

In detailed discussion of a review of the Petition and site visit, Mr. Kogan stated that he was having a hard time finding any hardship arising from unique characteristics of the subject land. Mr. Burke stated that he believes the prior fence was at 7 feet and was for a reasons. There is a lot of terracing between the two properties; the way that it

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was built up, make the elevation of Mr. Perry's property approximately a foot higher. So there are some unique characteristics that would warrant a higher fence.

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MR. ASCIOLA: Would anyone like to speak in favor or 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 to allow her to install a 6-foot high vinyl fence on top an existing 2-foot high stone wall be granted in part and denied in part. The portion that I am moving that we grant would be with respect to all of the panels that are presently erected of fence, except for the three northerly most panels. And the amount of the variance would be a 2-foot height variance, enabling her to retain the 6-foot high vinyl fence on top of the existing 2-foot high stone wall for all of the panels except for the three northerly most panels. And no variance with respect to the three northerly most panels, which would have the effect of requiring Ms. Storms to reduce the height of those panels to four feet above the 2-foot high stone wall for those three panels. The reasons for that motion are that there is a hardship due to unique characteristics of the subject land and or the structures on the subject land; not the general character of the surrounding area. As has been discussed tonight, that hardship arises from the grade and change in elevation between Ms. Storms' land, towards the rear of her house, and the land belonging to the abutting neighbor to the West, Mr. Perry. Her land rises up sharply from the driveway area and from the back of the house and then

continues to rise up behind the stone wall, so that Mr. Perry's land is at least a foot higher than her land, and maybe a foot lower than the stone wall on his side of that. And that presents challenge in that really the fence, if it was required to be a total of 6 across the whole back yard, would mean that when any activity on Mr. Perry's side of the fence would only be screened by Ms. Storms' fence to the height of 5 feet; because of the change in elevation. And that that seems like a hardship in that both neighbor's would want privacy and some screening to separate their properties. This hardship is not the result of prior action on the part of the applicant; she didn't create the grading on the land. We heard testimony, there was a stone wall in place prior to any action recently taken by Ms. Storms. There was a prior fence at that location, which appears between the old fence with the lattice at the top of it and the stone wall and the wooden fence, likely extended up to 7 feet high. And that the installation of the vinyl fence, 6-foot high, plus the stone wall, is only going up by one foot; and that's the portion for which we would be granting a variance. The final three panels would not get a variance, because of the impact that that might have on Mr. Perry's water view from his property. 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. In fact the applicant testified that she has expended a great deal of money; \$10,000, we've heard tonight, you know to erect this fence and rebuild the stone wall, in order to maintain separation and privacy for both of

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these home owners. And it is not her intention to resell the house, she just wants to have her own space and her own privacy and let Mr. Perry do whatever it is that he's doing on his side of the fence without it disrupting or interfering with Ms. Storm's use of her property. Granting the requested dimensional variance will not alter the general character of the area. The site visit disclosed that quite a few of the properties have fences that divide them along their side or back yards; and although the Board did not measure those fences, it doesn't appear that they are significantly different than the normal 6-foot high requirement. And just because of the changes in grade and elevations, it's an unusual circumstance on Ms. Storms' property where it slopes up and the fence at 6 feet high the whole way would not provide her with adequate screening. Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan, which does respect the desire of home owners to have their own space and have a quality of life separated from their neighbor's. The relief granted is the least relief necessary. In fact we're only granting...partially granting the relief that Ms. Storms is requesting, which is regrettably going to require her to expend some additional money; but it is not tearing down the whole fence. I think it is a reasonable, as Mr. Burke has said, it's a reasonable compromise to try to resolve the issues between Ms. Storms and her neighbor. And it would amount to more than a mere inconvenience if we didn't grant any dimensional variance. Ms. Storms has testified that she would have to tear down the whole

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fence and her expenditure would be wasted; and that would be unfair to her, because she would still need a fence and she would have to rebuild something; and that would be a complete duplication. So, for all those reasons, I move that we grant the request for the variance in part and deny it in part, as explained in my motion. This is, however, a salutary lesson to others like Ms. Storms that all these problems could have been avoided had she come in, or her contractor come in and spoken to the Town Officials about what would be permitted and the necessity to come in for a variance, if what she felt she needed was going to exceed what's permitted under the Ordinance. And it's quite regrettable that we find ourselves in the situation where we have a matter that had the requirements of the Code been explained to Ms. Storms or her contractor she probably would have complied in full with the Ordinance, as opposed to coming in for a variance at all. Nonetheless, I still make the motion that I'm making.

MR. BURKE: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(MOTION WAS UNANIMOUSLY APPROVED)

(Petition Partially Granted)

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**NEW PETITIONS:**

**3. 2016-19  
MARILYN MOTT TOLLESON**

**371 High Street: R-6  
Pl. 12, Lot 70**

Dimensional Variances to construct a 15' 4" X 27' 4" single-story 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 she worked hard with the architect and went through multiple versions of her initial idea of the loft bedroom; but they just don't have enough height for the ceiling. So they tried to spin it and then the stairs were going to take up most of the living area; so they finally decided to extend it 7 feet, which would be no closer to the abutting Lima property than already. This would give them enough room on a one-level to take a full size bed sides ways and put like a small screened area for the bedroom area; as opposed to just a pull out couch.

Ms. Tolleson, upon questioning confirmed it would be just a one story addition to the rear of the property, not extending any further to the south than the present wall; the bump out section; parallel along Lima's funeral parlor building. It would also be 14 feet from the end of the big addition on the Lima property. It would only be 7' 4" longer than the original plans approved. She also confirmed that Mr. Lima is aware of her change in plans.

Mr. Kogan referred to Sheet 3 of 3 of the big drawings, showing the efficiency unit in a darker outline than the existing home and asked Ms. Tolleson to approach the bench and review the plans in detail with the Board.

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MR. ASCIOLA: There is no one present in the audience to speak either for or against; can we have a motion from the Board.

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MR. BURKE:

I will make a motion to grant a dimensional variance of 4 ½ feet for an addition to the existing building for a distance of 27.4 feet; southerly from the existing building. The hardship is due to the unique characteristics of the land; because the house was previously existing in its current format. The hardship is not the result of prior action by the applicant. It was an existing house, I believe we heard testimony it was built in the 1700's. The hardship is not due to an economic disability of the applicant. It's an existing grandfathered three family and the applicant's desire is to make it a more livable space. Granting of the dimensional variance will not alter the general characteristics of the area. It is a compact area; the building that abuts it is also nonconforming; it is, in fact, much larger than the requested addition of this applicant. Granting of the requested dimensional variance will not impact the intent of the Town's Comprehensive Plan; it's consistent with multi-family. And, in fact, constitutes an improvement of the existing structure. The relief granted is the least relief necessary. The applicant has explored other options, which I think we had discussed the challenges that they would have to go with a two-story addition. Because of the characteristics of the land and the placement of the building, it is the least possible relief that we could grant. Not providing this... not approving this application would result in more than a mere inconvenience. The existing unit is really not compliant with living space. In fact, it probably violates some building code; although it was grandfathered. So, the applicant is in fact remedying that

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situation. I'm not recommending any special conditions. I would move that we grant this application.

MR. KOGAN: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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4. ADJOURNMENT:

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MR. BURKE: Make a motion to adjourn.

MR. SIMOES: Second.

MR. ASCIOLA: All those in favor?

MR. BURKE: Aye,.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 7:45 P.M.)

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RESPECTFULLY SUBMITTED,

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Susan E. Andrade  
Shorthand Reporter  
Notary Public

TOWN OF BRISTOL ZONING BOARD  
MEETING HELD ON: 11 JULY 2016

Date Accepted: \_\_\_\_\_

Chairman: \_\_\_\_\_