

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES

THE ZONING BOARD OF REVIEW  
OF BRISTOL, RHODE ISLAND

06 SEPTEMBER 2016  
7:10 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  
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 Zoning Board of Review, Tuesday, September 6, 2016, held at the Bristol Town Hall, 10 Court Street, Bristol, RI was called to order at 7:10 pm by Chairman Joseph P. Asciola.

1. APPROVAL OF MINUTES:

11 JULY 2016

**X X X X X X**

MR. ASCIOLA: First order of business will be the approval of the July 11, 2016 meeting.

MR. SIMOES: Mr. Chairman, I'd like to make a motion that the July 11th minutes be accepted as presented.

MR. BRUM: Second.

MR. HUDAK: 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)

**Chairman Asciola stepped down from the Board, Mr. Burke stepped up.**

**2. 2016-21  
PRAZERES MANAGEMENT CO., INC. Gooding Avenue and Hope Street: GB  
Pl. 118, Lot 2**

Applicant is requesting a Special Use Permit to construct a drive-thru window for a proposed 1,100 square foot freestanding Dunkin Donuts restaurant.

Applicant is also requesting Dimensional Variances to install a directory sign and two wall signs at sizes larger than permitted in the General Business zoning district.

Mr. Kogan explained that the Board had received a letter dated September 6th, addressed to the Zoning Board of Review from Attorney William P. Dennis, who requested that the matter be continued because the Town Council agenda for Wednesday, September 7, 2016 has as an item commissioning a traffic study on Fales Road and Hope Street area. That request indicates that that may affect the applicant's petition. So, the Board at this time would continue this matter, indefinitely until they have a new date.

Attorney Tietz stated that it would be his advice, as it seems very, very unlikely that this would be heard by the next month; it has to go with the State Roads, State Traffic Commission; it's going to be more than a month at the very least. So, he would recommend that it be continued indefinitely, with the requirement that there be new notice when they come back, so that anyone that lives within the radius will get mailing notice and there will be a new ad in the newspaper.

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MR. KOGAN: I would request that someone make a motion that this matter be continued indefinitely, with the requirement that when it is scheduled for an actual hearing that all of the parties entitled to written notice of the Zoning Board meeting receive a new written notice and that a new public

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notice be published with respect to the pendency of the PRAZERES application.

MR. HUDAK: So moved.

MR. BURKE: I second.

MR. KOGAN: All in favor of continuing this matter?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. HUDAK: Aye.

MR. BRUM: Aye.

**X X X X X X**

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued)

**Mr. Burke stepped down, Chairman Asciola stepped up.**

**3. 2016-20**

**PAUL & KAREN ALMEIDA**

**3 Anawan Avenue: R-10  
Pl. 122, Lot 6**

Applicant is requesting Dimensional Variances to demolish an existing single-family dwelling and construct a new 24' X 26' single-story dwelling on the same footprint with the addition of an 18' X 20' single story rear addition with less than the required front yard, left side yard and right side yard.

Mr. Paul Almeida, 6 Joseph Drive, Warren, RI, applicant, presented his Petition to the Board. He explained that the house has been in the family more than 50 years, it was a summer house and he remembers going there when it was just a shack. What he would like to do is turn it into his primary, per se retirement residence, for himself and his wife. They are both getting a little older, this would be a single-level home. Obviously the appearance of the house at present is not good; it's been an investment property, but it will be very dressed up. The existing foundation does not conform to new zoning laws. The new structure will utilize the existing footprint, 24' X 26', but would also include a 18' X 20' addition to the rear, as well as a 215 square foot rear deck. He needed to configure the property to stay off of the well head. The left side of the property, towards Sherman Avenue is 8' 9" off the survey, so he needs 1' 3" on that side. On the right hand side, opposite Sherman Avenue, because of the egress window, he needs approximately 3". It will be a single-level home with a full basement

The Board reviewed the plans in detail with Mr. Almeida. Upon questioning by Mr. Kogan, Mr. Almeida confirmed that they will be demolishing the front part of the existing home, which is two stories, leave the existing concrete foundation in place and then erect a one-story home with a one-story addition. The basement would require the excavation for a new foundation toward the rear of the building. And further to the east, they are proposing an open deck. The site plan indicates a trapezoidal shaped building

envelope, which completely encloses the addition and deck, as proposed, except for the right hand corner because there will be a 4' X 7' egress window, which would require approximately a 3" variance.

Mr. Tanner stated that this lot is a non-conforming single lot of record, so the side yards for a 50 foot wide lot are only 10 feet. Mr. Kogan stated that as he looks at the site plan, the portions that need zoning relief are the reconstruction of the non-conforming structure on the existing foundation, which on the left side, northern side of the property, encroaches by a very small amount, 8.4 feet from the property line; for a 1.6 variance on the left side. On the right and front they have a triangle portion of the old foundation that is outside of the permissible building envelope; looks like it encroaches; the corner is 25.8 feet and it should be 30 feet from the front; so that's a 4.2 foot variance. Mr. Tanner stated that out of an abundance of caution, Mr. Almeida has asked for a right side yard variance for the steps for the egress window. They typically wouldn't count steps from a front door, so it's up to the Board if they think he needs a variance or not.

Retired Lieutenant Cornell Alfred Rose, 4 Anawan, and abutting neighbor directly across the street spoke in favor of the Petition. He stated that he lived grew up there and went away for close to 40 years, with 28 in the Army and appreciates that the Board takes input from the neighbor's. He stated that this is the last property on Anawan that is not what he would consider full time residence. So it's not as well maintained or cared for by somebody who lives there; it's also a two-story structure, it's not in the best shape as Mr. Allied stated. Everything in the proposal tells him that it would be beneficial to every member on that street, certainly from his perception. And he would encourage the Board to approve the requested variance.

**X X X X X X**

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

MR. HUDAK; I'll make a motion to approve applicant's request to demolish a single-family dwelling and construct a new 24' X 26' single-story dwelling on the same footprint, which would require a 1.6 foot variance from the left, north side of the property and a 4.2 foot variance from the front side of the property. And in support of this motion I would offer the following. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and structure and not to the general characteristics of the surrounding area; and not due to the economic disability of the applicant. From the plan submitted to us, this property is on a oddly shaped trapezoid configuration, which in certain points the property sits too close to the neighboring lines, which is creating some of this issue, which pre-dated the ownership of the applicant. That the hardship is not the result of any prior action of the applicant and does not necessarily result from the desire of the applicant to realize greater financial gain. The applicant testified that this property has been in the family for over 50 years and so he did not create this or build the property. And he does not seek to realize financial gain from this, in fact he intends to use it as his primary residence. That 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 of the Comprehensive Plan of the Town. We have testimony from neighbors saying that in fact this will improve the property and be more consistent with the homes in the area by making a home that is now a rental property a primary residence with improvements to the home. That the relief to be granted is the least relief necessary. From the testimony provided to us, the existing two-story dwelling will be knocked down and replaced with a single-family

dwelling on the same concrete slab. So both the slab that is existing there is being utilized, as well as the house is going to be in fact smaller than it currently is now. And, finally, that the dimensional variance, in granting this, that the hardship that would be suffered by the owner of the subject property, if we do not grant this, shall amount to more than a mere inconvenience. Again, from the testimony, this house likely needs upgrades, it is intended to be a single-family use and without these upgrades and the variances allowed, perhaps the owner could not seek the beneficial value that the applicants seek to use it for. So, for these reasons, I move to grant the applicant's request.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. HUDAK: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

**X X X X X X**

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition granted)

**4. 2016-22  
DIANNE C. RILEY**

**415 Poppasquash Rd.: R-40  
Pl. 177, Lot 74**

Applicant is requesting dimensional variances to construct a 21' 2" X 33' 6" accessory garage structure at a size larger than permitted and with less than the required front yard.

Attorney Ralph Kinder, Gilstien, Kinder and Levin, Providence, RI, representing the Usher Cove Realty Trust, which in actuality he found out is the actual owner of the property and should be the applicant. He introduced the two trustees, Mr. And Mrs. Riley, who will be living in the residence. So, in fact that would be the property owner. He explained that they were requesting a dimensional variance. In talking with Mr. Tanner today, he found out that there weren't originally the site plans included in the application, which he presented to the Board and was marked as Exhibit No. A. The site plans give a better perspective of the property and explains why the proposed garage is located where proposed. In essence, they've received CRMC regs, buffers and setbacks that require them to have the house fairly a good ways back on the lot. They are also required to have a OSWTS system, which is a pretty significant system and the plans are on the second page of the package; and where it's located really sort of forces the garage to be where it is proposed. Their dimensional variance is basically the front yard setback, which is where they are proposing a setback of 35.6, the requirement is 40. The side yard is at 6.6, which is close but not within the side yard of 6 feet. They believe that the proposed structures will fit in with the neighborhood and it will have minimal impact on safety and the neighbor's.

Mr. Kogan noted that the garage shape presented in Exhibit A were different from the garage shape in the Petition. Mr. Tanner stated that the Exhibit A plans were drawn up first for CRMC and we're basically used for location purposes. Mr. Kinder stated that Mr. Tanner was correct and that Exhibit A could be modified quite easily.

Mr. J.P. Couture, Architect, 12 Arnold Street, Providence, RI explained that the site plan presented this evening was used for CRMC approval for location purposes before the actual design, so the plans that were submitted in the original packet. Mr. Couture reviewed the plans in detail with the Board and described all of the buffer zones and regulations that must be met on this property, which dictates the location of both the house and the garage. The location of the garage in the front of the property conforms to the area, as all the houses in that area have garages in the front of the properties. He also pointed out that they are required to have some rain gardens for runoff, one of which goes between the house and the garage.

Mr. Kogan noted that they would need relief to have the garage located in the front yard and also it would be only 35.6 feet from the front property line, which needs 40; and there's also the size of the accessory structure, which appears to exceed 22' X 24'. He also stated that it's a very large lot with a very large house, but it's placement at 35.6 feet from the front property line is, in part, dictated by the size of the garage and if the garage was smaller than the proposed size, then they might only need a variance to permit the erection of an accessory structure in a front yard and not a dimensional variance for the size of the garage or for the front yard setback. So he need to hear why they need such a big garage.

Mr. Couture stated that the garage is planned to hold two cars and a boat. That's the reason why it's extended longer in one location, so that the boat can go in behind a car. Mr. Kinder stated that they've tried to make enough space to house the boat, so that it's not outside.

Mr. Tom Riley, owner, explained that the boat is on a trailer; the boat is 16 feet and the trailer is another 5 feet and then the engine on the back of the boat adds another 2 feet. That is the reason for the odd shape of the garage, the length of the boat and trailer.

The Board reviewed the plans on how far away the abutting structures would be with Mr. Kinder and Mr. Couture. Mr. Kinder stated that the Rileys have spoken to all of the neighbor's about the proposal, with no objection from any of the neighbor's, particularly the Epstiens, who would be the logical people who would object. There is also a significant amount of landscaping that's going up between the rain garden and a lot of landscaping. They are keeping all of the wooded buffer area, which makes CRMC very happy, but it does shove it all out towards the road a bit.

Mr. Kogan noted that the irregularly shaped lot is only really the north quadrant of it that is really useable, due to all of the CRMC required setbacks. Mr. Couture confirmed that he was correct. Mr. Kogan noted that the entire lot is 71,430 square feet and asked what the usable area is. Mr. Couture stated that it is about 30% of the total, something like 20,000 square feet. Mr. Kogan noted that the angle of the proposed home is architecturally, that would be dictated by the view down to the Bay, at least in part. Mr. Couture stated that it's responding not only to the street edge, but also to the view down to the Bay. It also allows the space to put the garage. He also explained that the original access to the property was just after the curve, which was a bit dangerous and one of the things that CRMC took into consideration was that they were allowing for access further away from the curve and egress out into the direction of traffic, rather than crossing over it and it will give better access to emergency vehicles.

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

MR. KOGAN: Mr. Chairman I'm going to make a motion that the applicant's request for dimensional variances to permit the construction and erecting of 31' 2" X 33' 6" accessory garage structure be granted. The specific variances that I am moving that we grant are as follows: First, with respect to the size of

the accessory structure. The applicant is proposing an accessory garage structure of 31' 2" X 33' 6", which would exceed the normal required maximum size of 22' X 24'; so that the variance that I am proposing with regard to the 22' foot dimension be 9' 2" and with respect to the 24' foot normally required dimension, the variance of 9' 6". To permit the 31' 2' X 33' 6" structure. And also proposing a front yard setback variance of 4' 6" that would permit the applicant to construct the accessory garage structure to within 35' 6" of the front property line on Poppasquash Road. And finally a variance from the requirements of Zoning Ordinance Section 28-142 (d); that an accessory structure not be located in a front yard. So that the variance that I'm proposing would also permit the applicant to construct the proposed accessory garage structure in a portion of the front yard. And the reasons for all of those dimensional variances are that there is a hardship due to the unique characteristics of the subject and not the general character of the surrounding area. The applicant's architect has testified that this parcel, which is a large parcel, approximately one and two thirds, one and three quarters acre, which has situated on it a significant amount of wetlands and other coastal features that require the applicant to have already secured approval from the Coast Resources Management Council, which has designated as indicated on Exhibit A, significant setbacks for distance from a coastal feature and other setback requirements; that reduce the actual usable portion of this large residential lot by approximately 2/3; and they only have about 20,000 square feet, not 71,430 square feet, as indicated on the drawings. With that reduction in usable land, there also came additional requirements from Coast Resource Management that reflected

the location of the driveway not to come as it might previously have done so at the curve on Poppasquash Road, so all of those requirements from another agency, State agency, created a hardship in attempting to identify an appropriate location for the garage outside of the front yard. But due to the wetlands and other environmental restrictions, and also due to the desired alignment of the proposed dwelling on this lot, the only suitable location appears to be within the front yard. That hardship also arises in conjunction with the size of the structure and its location. Locating the structure at a distance of 40 feet from the front property line, which would be the normally required distance would create a hardship given the applicants' desire to erect an accessory structure that would have one automobile and one boat; I don't know if it's a sailboat or a power boat, but we have testimony from the applicant himself one of the trustees of the Usher Cover Realty Trust, that the owners intend to use a boat and to store the boat in the garage; and that dictates this somewhat larger than usual garage. And it would be a hardship for them to build within the normal size of an accessory structure and to build at a distance of 40 feet, because it would then move the garage much closer to the house in a way that wouldn't make sense for the use of the property. These hardships are not the result of any prior action on the part of the applicant. The applicant hadn't constructed anything previously and is attempting to provide a plan that is practicable and appropriate for this quite extensive piece of property, but one which comes with all these environmental restrictions attached to it. This hardship is not due to any economic disability on the part of the applicant, nor a desire to realize greater financial gain. Rather the hardship is merely an attempt to come

up with a sensible plan for a lovely large residence that the applicants intent to occupy as their home. Granting the requested dimensional variances and the location variance will not alter the general character of the area. This portion of Bristol has very large lots and large gracious residential structures, many of which have accessory garage structures in excess of the 22' X 24' accessory structure maximum. And the building of a garage larger than normally allowed size appears to be normal in this neighborhood, given the very extensive size of the property and extensive size dwellings that are built on Poppasquash. There are other properties on Poppasquash that have three and four car garages; so this garage is not out of keeping with the general character of that area. Granting the requested variances will not impair the intent of the Town's Comprehensive Plan, which is intended to take into account the differences between different districts. This is a district that requires a minimum of 40,000 square feet; this property is 71,000 square feet plus, and on that size property it is not unusual to have a larger than ordinarily permitted accessory garage structure. The relief requested and which I'm moving that we grant, is the least relief necessary to meet the needs of the applicants, as testified to by the architect and by the trustee/owner of the property. And the hardship would amount to more than a mere inconvenience unless these various dimensional variances were to be granted. So for those reasons I move that we approve the requested variances.

MR. HUDAK: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. HUDAK: Aye.

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MR. SIMOES: Aye.

MR. ASCIOLA: Aye,.

MR. KOGAN: Aye.

MR. BRUM: Aye.

**X X X X X X**

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition granted)

06 SEPTEMBER 2016

**5. ADJOURNMENT:**

**X X X X X X**

MR. ASCIOLA: Motion to adjourn?

MR. SIMOES: So moved.

MR. BRUM: Second.

MR. ASCIOLA: All those in favor

MR. HUDAK: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

**X X X X X X**

**(THE MOTION WAS UNANIMOUSLY APPROVED)**

**(MEETING ADJOURNED AT 8:10 pm)**

06 SEPTEMBER 2016

RESPECTFULLY SUBMITTED,

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Susan E. Andrade  
Shorthand Reporter  
Notary Public

TOWN OF BRISTOL ZONING BOARD  
MEETING HELD ON: 06 SEPTEMBER 2016

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

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