

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES

THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

03 OCTOBER 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. CHARLIE BURKE
MR. TONY BRUM

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

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03 OCTOBER 2016

The meeting of the Town of Bristol Zoning Board of Review was held at the Bristol Town Hall, 10 Court Street, Bristol, RI; and called to order at 7:10 p.m. by Chairman Joseph Asciola.

1. APPROVAL OF MINUTES:

06 SEPTEMBER 2016

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MR. ASCIOLA: The first order of business will be the approval of the September 6th meeting.

MR. SIMOES: Mr. Chairman, I'll make a motion that the minutes of the September 6th meeting be approved.

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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2. 2016-23
GAIL A. & JOSEPH F. PARELLA
5 Peck Rock Rd.: R-10
Pl.65, Lot 71

Dimensional Variances to construct a 406 square foot second story deck addition to an existing single-family dwelling with less than the required front yard and rear yard; and to construct a 126 square foot third story deck addition with less than the required rear yard.

Mr. Joseph Parella presented his Petition to the Board. Mr. Parella explained that a lot has happened since receiving a variance to build their home on Peck Rock Road. They are installing all impact resistant doors and windows; on the water side they're installing glass walls that fold in an accordion fashion. Originally they were going to fold in; so the original house design had a six foot deck on the first floor and a three foot deck off the master bedroom on the second floor. Over the course of a year or so in the design they found that the original company they were going to use is not compatible with concrete construction. So, because their base is wood, his contractor didn't feel it was a good match. They have now gone to an aluminum base, impact resistant glass wall structure; however it only opens out, rather than in. So because they need to accordion out, the six foot deck becomes a three foot deck, in usable space; and the upper deck would also be smaller. They have come up with a redesign only the deck portions of the house; they would like to extend the decks towards the water. They have already received a verbal from CRMC. CRMC is waiting for a sign off from the Town. They are staying within the confines that the Zoning Board has set for the lot with the south and north setbacks of 15 feet; they would only be going closer to the water by approximately 6 feet. CRMC considers this an insignificant modification. The decks would also be a little bit wider, which would conform to others in the area with full-width decks; the deck would now come as far as the kitchen area.

The Board reviewed the plans in detail with Mr. Parella. Mr. Kogan reviewed the required relief. In a R-10 zone, the normal setback rear and front is 30 feet; the Board did previously grant relief for the house and the smaller deck. He understands that they are just extending westward the deck to give some extra width on the deck to accommodate the outwardly folding glass panels. Mr. Tanner confirmed that the house already was going to encroach by 15 feet into the front and rear yard; and since they're extending the line; these extensions will be encroaching into the normal setback into the front and rear and that's why he instructed Mr. Parella to get a variance for the extension. Mr. Kogan noted that because the third story deck is only on the south side of the house, that doesn't need a front yard variance for the third story deck. And the second story deck, which will enable access from both the living room and the kitchen; because that spans the whole back of the house, that would require both front and rear yard setback variances. Mr. Kogan also noted for the record that the application indicates that the deck, although it would extend a little further from the house, is 61' from the water, which he assumes is the property line; so this minor extension in a westerly direction comes nowhere near the western side property.

Mr. Paul Agatello, abutting property owner at 1 Beach Road, stated that he's been by the proposed project and looked at the plans and can say that he believes that this house will certainly be a welcomed addition to the area. He sees it as a win, win situation, where property values will go up. The previous house located on the property lacked much of anything and this new home will be a positive change for the area.

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MR. ASCIOLA: Would anyone else like to be heard? Can we have a motion from the Board?

MR. KOGAN: Mr. Chairman I'll make a motion that the applicant's request for dimensional variances, that would enable them to construct a 406 square

foot second story deck addition and a 126 square foot third story deck addition to their property with less than the required front and rear yard, with respect to the second story deck addition, and with less than the required rear yard with respect to the third story addition, be granted. For these proposed deck additions, the amount of relief that I'm moving that we grant would be a 15 foot variance from both the front and the rear required 30-foot setback; that would enable the applicant to construct these additions in line with the walls of the house that they had previously been granted a variance to construct at the 15 feet from the front and the rear north and south property lines. The reasons for the variances that I'm proposing are that there is a hardship due to unique characteristics of the subject land; and not the general character of the area. This lot is relatively narrow, quite wide running from east to west, but relatively narrow. And would require front and rear yard setback relief to construct almost any home that would be in character in keeping for its location and the overall size of the lot. That was the reason that the Board previously granted front and rear yard setback variances for the main house; which is presently under construction. This hardship is not the result of any prior action on the part of the applicant. The applicant... at least we heard testimony a year or so ago, did not lay out this lot, which is over 200 feet deep, but only approximately 70 feet wide. The applicant, also, did not create the coastal feature issues from its location that also necessitated locating the home setback where it is from Narragansett Bay. This hardship is not due to any economic disability on the part of the applicant, or any desire on the applicant's part to realize greater financial gain. Rather, the hardship arises from the narrow lot and the existing normal

front and rear yard setbacks of 30 feet. And having to construct a deck that would comply with a 30-foot front and rear yard setbacks, would make the deck virtually unusable; because it would be approximately a 20-foot wide deck or 15-foot wide deck in the middle of the house, not consistent with normal use for enjoyment of the view and recreational purposes. Granting the requested dimensional variances will not alter the general character of the area. As was testified to from Mr. Parella, many of the Bay front properties along Narragansett Bay, in that section of Town, have decks that span the width of the house facing the Bay, facing in a westward direction. And it would not be out of character for the Parelles to have such a deck. Granting the requested dimensional variances will not impair the intent of the Town's Comprehensive Plan, which envisions encouraging residential development in this R-10 zone. And encourages parties to improve their homes. The relief requested is the least relief necessary. As I indicated previously, without relief of this sort, they wouldn't be able to build a deck that would expand the width of their home on the western side. And it would amount to more than a mere inconvenience, were the requested dimensional variances to be denied by this Board, since the applicant's would basically be unable to build a usable deck. So, for those reasons, I move that we grant the requested dimensional variances.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

03 OCTOBER 2016

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

3. 2016-24
MELANIE HOPPER KOPPELMAN 60 Poppasquash Rd.: R-20
Pl. 130, Lot 2

Applicant is requesting Dimensional Variances to demolish an existing accessory barn structure and construct a new 33' 2" x 36' 8" accessory barn structure at a greater size and at a greater height than permitted for accessory structures in a residential zoning district.

Ms. Melissa Hutchinson, M. H. Architect for Ms. Koppelman presented the Petition to the Board. The project has been going on in phases and the house and the barn on the property is a historic property; the house was built in 1881 and not quite sure of the date of the barn, but is sure it wasn't too long after the main house. They needed to go before the HDC for renovations of both the house and the barn. They divided the approvals in half and are now moving on to the barn. Chuck Millard is the builder and is working on the home at this time. The barn was originally a cow barn and when the barn was built, it wasn't built up to any modern day code compliancy. A lot of the framing members and the foundation were undersized; and you can tell now that there is a noticeable lean in the barn and it's their opinion that the barn is not really salvageable in the present condition. And because they want to adaptable reuse the barn and have it used as a home occupation, they would like to bring it up to the code standards, which would mean it would be properly insulated, it would have modern day mechanical and electrical plumbing. Where the barn sits currently, as shown on Sheet A-1.0, which is the site plan, the FEMA zone AE is running right through the northeast corner of the barn. So, the HDC has given them approval to basically demolish the existing barn and to rebuild it in kind. They would be using all of the same materials and the massing, size and configuration, even though the window configuration would be the same; but they would like to push the barn to the west by 8 feet. Since they're going to rebuild it, they figured they would rebuild it out of the flood plain and remove the burden from the

homeowner, so that they don't have to pay additional flood insurance on the barn. The footprint of the barn is about 33.2' x 36' 8", which is shown on Sheet B1.1. So the dimensions are obviously larger than the 22' x 24' that's allowed in an R-20; so they are before the Board to ask to have the existing footprint stay the same, and then to also have the ridge height at 26' 11", rather than the allowable 20 feet. It is a 2 1/2 story barn; and basically the HDC would like to see them rebuild at the same footprint, the same height, the same massing, the same window configuration. If they do not receive zoning approval, they would have to redesign something that they could do by right, but they would have to go back to HDC, because it obviously wouldn't match the existing look of that barn. The barn also sits quite far off of Poppasquash Road, so they are trying to maintain the overall estate feeling and setting of the property. And they feel that moving it that 8 feet really wouldn't change the look. Somebody driving by everyday might not even notice that it's been moved over 8 feet; but they do feel that if the overall structure was reduced in mass, reduced in height, that it obviously would not be the same character that it is now.

Mr. Kogan stated that he understands the HDC's desire to maintain the same barn structural appearance, and it's admirable that the owner wants to do that; however he's interested in the home occupation activity. Ms. Hutchinson explained that the owner is an acupuncturist and does a lot of research work at home. The proposed use would be a small treatment facility area, where clients could come for treatment. And there's also an office, where this research and reading would take place. Roughly 50% of the barn will be utilized for the home occupation. The only other difference would be that right now there is a low ceiling in the basement and it's on a dry stacked field stone foundation; so they are proposing that they would provide a proper full basement foundation, reinforced concrete, that would have a stone veneer to look the same, but that would be usable storage in the basement area, where it's really not usable storage

now because of the limited head room. The home occupation facility would be on the first floor, so that it would be easy access for clients. And on Sheet A1.0, they were also thinking about requesting a new curb cut along Poppasquash, so that there would be a separate entrance that would be used by clientele. The existing asphalt drive that services the barn now is on a shared easement and she believes three different properties use that existing driveway. It was the request of the other abutting property owners that they have a separate entrance. At present the curb cut has not been granted. Discussion was held on utilizing an existing gravel roadway presently being used for construction purposes and that they could consider using that in the future planning of access to the barn.

Mr. Kogan stated that he would like to hear from Ms. Koppleman on how she plans on complying with the home occupation requirements under zoning.

Ms. Melanie Koppelman explained that she is trained as an acupuncturist and she's also a researcher with a University in the U.K.; so she splits her time between treating patients and researching and writing, along with charitable organization work. Her idea is rather than rent a full time premises, which really didn't seem appropriate, is to have room in this building to have the option of treating people. She spends most of her time researching and writing, so she's not anticipating a high traffic situation. She sees one patient at a time and not every day. She has not thoroughly familiarized herself with the home occupation regulations.

Mr. Kogan stated that one of the questions addressed in the regulations has to do with the number of employees who are not members of the family residing in the dwelling unit. Ms. Koppelman stated that there will be no employees.

Mr. Kogan noted that another aspect has to do with signage. Ms. Koppelman stated that she would have enough signage for people to be able to find it, but not really for passersby to stop in. So, really just to avoid confusion. She has a website for people

to find her and make an appointment; but the signage would be something subtle and clear so that someone looking for it could find it, maybe on the mailbox. She would comply with whatever regulations are needed.

There would be two people residing in the home. Mr. Kogan asked why the four parking spaces, if she would be treating one patient at a time, no employees and she will be residing in the main home. Ms. Hutchinson stated that it doesn't need to be four. The plan was put together some time ago, and it could be reduced and still be completely functional.

Mr. Asciola stated that the reason for the size is to keep the original appearance, not that she needs the space for her intended use. Ms. Koppleman stated that he was correct. And that her intention when she purchased the property was to have an accessory building where she could separate her home from work.

The Board reviewed the re-build plans in detail. Ms. Koppleman stated that there is a structural engineering report filed with the plans presented to HDC.

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MR. ASCIOLA: Would anyone like to speak in favor? Would anyone like to speak against? Nothing, okay, can we have a motion from the Board, please?

MR. BURKE: I'll make a motion to approve this application for a garage that is over the size of that permitted in a residential zone. The size of that garage would be 33' 2" x 36' 8" and 26' 11" high, versus the zoning requirement of 20. Also, I would like to move that we approve the 8-foot westerly relocation of the barn to remove it from the flood zone. The reason I'm making this motion is that the hardship is due to the unique characteristics of the subject land and the buildings that currently exist on it. The barn is existing and it does need to be repaired. The new use will require that it meets all of the building codes. It's not the result of any prior action of the

applicant. i don't know when you acquired that property, but I would assume its relatively recently. Can you tell me when that was.

MS. KOPPELMAN: In November.

Okay. So, in November of 2015... it was acquired in November of 2015, and both the main house and the barn will undergo extensive renovations. The hardship is not due to any economic disability of the applicant. They testified that they have acquired the home and it will be extensively renovated. That the granting of this request for dimensional variance will not alter the general character of the area. There's many homes right along Poppasquash Road that are large homes on large pieces of property, that were in fact used for agriculture; and that barn is the result of the former use. The granting of this request will not impair the intent of Town's Comprehensive Plan. It actually is an improvement of property that does need to be renovated in a residential area and will be used for a long home application. The relief granted is the least relief necessary. We heard testimony, and I saw the barn, there is also testimony that a structural engineer determined that it is not usable in its current state; so there really is no other relief that we could grant other than this. The applicant would suffer a hardship amounting to more than a mere inconvenience, unless this dimensional variance is granted. Once again, there is no alternative, except to repair the barn and to move it to the westerly location. For these reasons I move that we approve this application.

MR. KOGAN: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

03 OCTOBER 2016

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

4. 2016-25
JOSEPH P. & SUSAN A. CAMERA

25 Paull St.: R-10
Pl. 3, Lots 14 & 14

Applicant is requesting Dimensional Variances to construct a 14' x 16' sunroom addition to the rear of an existing single-family dwelling with less than the required rear yard and right side yard.

Mr. Wayne Mello, 16 Hillside Road, presented the Petition to the Board on behalf of the Cameras. Mr. Mello stated they are looking to put on an all-season room on the back of the house. They just recently granted their daughter and son-in-law the main portion of the home and now the Cameras are in the in-law portion of the dwelling. Their hardship is that they don't have any kind of room where they can see outside very well; and they are limited to the space that they now have. They require a rear yard variance and also the right side yard. When he first started doing research he found that when the in-law apartment was being constructed in 1986, the information he was working off of wasn't sufficient. He came down to the Town and found that the land was surveyed three years ago. A copy of which he submitted to the Board. Mr. Mello stated that he is looking to step in the addition a little bit from the existing line of the house. What the survey shows is that the setback on the right side is only 8'4" from the right side yard property line.

Mr. Kogan noted that the plans shows the addition being 15' from the property line; which would require stepping in the addition about 6 1/2 feet. Mr. Mello stated that when he first did the drawing he was going on the first information given him. On the sketch the footprint shows 15' side yards set up there; and come to find out it wasn't correct. Now he would be open to suggestions from the Board about the distance from the right side yard to the new addition. He would be able to take the addition all the way over to the far side of the existing in-law apartment and go left; in order to get the 15 foot

to the property line, he couldn't make the addition 16 feet. So, if the Board would consider any less than that, it would be appreciated.

The Board discussed positioning of the addition in detail with Mr. Mello. Mr. Mello also submitted a photograph of the area to the Board.

The survey was marked as Exhibit No. 1.

The submitted photograph was marked as Exhibit No. 2.

Mr. Mello confirmed that the width of the in-law apartment behind the garage is 22 feet. And the distance from the in-law apartment to the north, or right side property line, is 8.4'. The distance from the in-law apartment to the rear property, the western property line is 39' at the northwest corner of the in-law apartment.

Mr. Tanner stated that when the in-law apartment was accepted in 1986, all of the sketches were hand drawn at that time also. He wanted to bring up the point that all the land to the north and to the east is wooded and probably mostly wetlands and most of it is owned by the Bristol Housing Authority; it's probably not developable, but there is a paper street abutting this property to the north. He doubts that the street would ever be improved, but the Board could make a finding on whether this is a corner lot or not. If it is a corner lot, then the right-side property line would be a 30-foot setback.

Mr. Burke commented that having a site plan on these matters would make it much easier. Mr. Tanner stated that when they come in for their building permit, they could easily get the surveyor to update this plan to show the new sunroom in the location that the Board wants it to be; so that they have a plan in the record.

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MR. ASCIOLA: Would anyone like to speak in favor? Would anyone like to speak against? Motion from the Board, please.

MR. BRUM: I make a motion that we approve the dimensional variance to construct a 14' x 16' addition to the rear of an existing single-family dwelling with less

than required rear yard and right yard setback. The variance would be for a 5' rear yard setback, as well as a 5' side yard setback. I do make a special condition that upon, or prior to building the sunroom, that a site plan be added to the application before the building permit is issued. The hardship from which the applicant seeks relief is due to the unique characteristics of the lot, the angle of the lot and the position of the garage on the property. Structurally, it does not take away from the general characteristic of the home. The result of this hardship is due to the positioning of the home and as this Board has in the past provided a variance to build this garage, I think that now, keeping in the same line of the home, that we can grant this variance for the sunroom. I do believe that it's the least amount of relief required. It is an in-law situation, where residents in Town are looking to stay in Town, as well as help their family by providing them with a place to stay. So, if this dimensional variance isn't granted, I do believe it's more than a mere inconvenience. So, based on those reasons, I make a motion to approve.

MR. BURKE: I'll second that.

MR. ASCIOLA: All 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)

(Petition Granted)

5. 2016-26
NITO HOLDINGS, LLC

91 Broadcommon Rd.: M
Pl. 100, Lot 61

Applicant is requesting a Dimensional Variance to construct a 100' x 100' addition to the rear of an existing manufacturing building with less than the required setback from a residential zone boundary.

Attorney William Dennis presented the Petition to the Board. Mr. Dennis introduced two witnesses, Mr. Steven T. Rogers, who is the architect on the proposed development and Mr. Thomas Gonzales, Principle of NITO Holdings. Mr. Dennis explained that once again, this evening the applicant was present for dimensional relief. In this instance set back relief; however not the usual boundary line set back, but a set back from the common zone district boundary. That is the zone district boundary of a residential zone to a manufacturing zone. The process has been on-going for about four months. The applicant first appeared in the zoning and planning departments of the Town with a proposed plan for an addition, 100' x 100'. It was discovered at that time that the zoned district boundary took a very severe jog. Of course, the property which now constitutes the industrial park has existed for many, many decades, and back in the 1980s the Peckham Place residential development and years later, the extension of Brook Farm Drive as a development came to the area and this most recent configuration of the common zone district boundary was created. It was discovered that because of this unusual jog in the zone district boundary the applicant found himself needing a 6 1/2 foot variance, not on his whole addition, but in the very northwest tip of the proposed addition. He referred to the plans that were attached to the application, and stated that on at least one of them they took the liberty of drawing a circle to highlight that little tip of the building which intrudes into the set back area. He mentioned that in addition to going through the departments of planning and zoning, because this proposed addition constituted a development requiring Planning Board approval, the Planning Board is

allowed to set the setback from this residential zone district at 75 feet. This is based on the configuration of the property and the agreement of the applicant to install a planted buffer in accordance with the zoning code. So this is not a variance, it's not zoning relief, it's under the dimensional regulation, Section of the code 28-1 12, which permits this 75 foot setback, when the planted buffer is installed. The applicant appeared before the Technical Review Committee, received unanimous approval and recommendation. The applicant appeared before the full Planning Board and again received unanimous approval of the plan, with the understanding of course that they would need to seek relief from the Zoning Board for the 6 1/2 foot intrusion of that corner of the proposed addition. So, they are seeking dimensional relief for this setback, not for the entire 100' width of this addition, but just the very tip. He hoped that the Board could take note of that. Mr. Dennis noted that when you talk about normal setback, one normally talks about the setbacks of the building to the property line; and he wanted to draw the Board's attention to the setbacks for this particular property in its zone and how the existing and the proposed setbacks far exceed the requirements of the Town's zoning code. In the Code they are required to have a 30-foot front yard setback; and they actually enjoy a 48' front yard setback, which would not change. Their side yard setbacks are required to be 25 feet; this property enjoys a left side setback of 75 feet and a right side setback exceeding 38 feet. Even with the construction of the proposed addition, the rear yard requirement under the Code is 20 feet; this particular building, as proposed would lie 130 feet from the property line. They are more than six times the required rear yard setback from the property line. And, finally, in terms of coverage, they are permitted coverage to the extent of 80% of the lot area. Even with the proposed construction, their coverage would only be at 57%.

Mr. Stephen Rogers, architect presented plans to the Board. He submitted aerial photographs from Google, which does not represent the current state of the site. He

walked through the site plan in detail with the Board. The setback was granted by Planning is 75 feet. He pointed out on the site plans the corner of the building they are seeking relief on. To get the 75 foot setback, they are increasing the landscape buffer by an extra 12 1/2 feet. NITO Holdings is going to be invest in quite a bit of landscaping and improvements along the north side of the property and along the west side of the property to make that buffer more dense. The proposed addition will be used for assembly. The production takes place solely in the interior of the building. Its quiet, the operation is from 7 until approximately 4:30 in the afternoon. Production starts at the front of the building with the assembly of boat pieces and then final assembly would be in the 100' x 100' addition. The boats are large and they require a lot of space, thus that 100 clear space that they are asking for in the addition. They meet all of the parking requirements. They would need 83 parking spaces and they have space for that. The back area would not be paved and would remain gravel for drainage and storm water runoff. They prepared a landscape plan, which shows the extent of the additional planting. So the row of arborvitae that exists would stay and then continue along the north edge, all the way along into the corner, to give a very solid buffer for the neighbors. He pointed out all of the plantings along the back of the site on the plan in detail to the Board. They have had engineering plans done for storm water runoff and there will be water management done on the north side to accommodate for the new addition. He highlighted an already paved area on the plans and stated they would not be increasing runoff in that area, as it is already paved. The water will be captured along the north edge and swale into a boulder wall along the edge to give some elevation and separate the new addition from the existing manufacturing property.

Mr. Rogers then turned the plans around to face the audience and explained the plans to the audience.

Mr. Dennis asked in Mr. Roger's opinion, based on his qualifications as an architect and his experience on these projects, Mr. Rogers confirmed that he is aware that they have to meet certain standards to get dimensional relief. One is that the proposed addition would not alter the general character of the surrounding area; and he believes it would not. In regard to an opinion as to whether the granting of the variance would impair the intent of the Zoning Code or the Comprehensive Plan; it would not. In regards to this 45 square foot area, in relation to the fact that the Zoning Code provides for relief from certain dimensional requirements, it is his opinion that a situation like this, where you have such a minimal intrusion into this area, that perhaps this is a perfect case for dimensional relief; because the square footage that is going into this dimensional setback from an R-10 zone is very small.

Mr. Kogan stated that the requested variance would be a 6 1/2 foot variance from the now 75 foot minimum setback from a common zone district boundary. So, that the closest point that the building would be to the residential district would be 68 1/2 feet; and that Mr. Rogers testified that the small portion that would require the variance amounts to 45 square feet in area. He realizes it's a strange shape, triangular, but then has an arc on one side, but it's more or less triangular in shape. So, it's 6 1/2 feet encroachment into the 75 foot setback; and the area covered by the encroachment is 45 square feet. Mr. Kogan continued and stated that it was his understanding that the addition that's being proposed is a 100' x 100' addition; that addition amounts to 10,000 square feet; and that addition is being added on to a building that currently has approximately 27,000 square feet of first floor area. So that the total building, once its constructed would be slightly in excess of 37,000 square feet of first floor area. So, this 45 square foot encroachment is less than 1/2 of 1 per cent of the 10,000 square foot addition. Mr. Rogers confirmed that Mr. Kogan was correct. Mr. Kogan stated that 45 square feet of this proposed 37,000 square foot industrial building is less than 1/8 of 1

per cent, in relationship to the whole of this commercial structure that Mr. Gonzales on what he plans to do with it. So this is a very miniscule amount of encroachment in relationship to the size of the addition or in the relationship to the size the overall industrial building.

Mr. Asciola stated that for visualization of 45 square feet, one should think of the size of a 9' x 5' area rug.

Mr. Thomas Gonzales explained that he after suffering injuries in a motorcycle accident he discovered sailing. Mr. Gonzales gave a detailed description of his life discovery into sailing and his journey which led him to Bristol, Rhode Island, where he met his wife and started his business and has been very fortunate to bring high-end boat building back to Bristol. Friends from his America Cup days have now moved to Bristol to build boats, ten families so far. The current workforce is 14 and they're planning to grow that to 28 people in 2018.

Mr. Gonzales explained in detail the reason for requiring the 100' x 100' space, which is a critical issue for his boat building process. He began by explaining that he chose this particular location and building because all of his suppliers are nearby within a bicycle ride away within the industrial park. The first boat they are building is 53' x 28' wide; they're next boat is 88' x 40' wide; that's why they added the big doors in the back. They create their boats in a linear way; so they need the space because it's impossible to assemble the boat with just inches from a wall. One boat takes a year and a half to build; they build in a system called prepreg, which requires a clean environment; they're floors are similar to hospital floors. This is very different than the old boat building processes; because they build in aerospace quality; there's no fumes, there's barely any dust created. The plan is to bring in all the parts to the assembly area and then build on top of the puzzle; where on the other side their 53's are created in 8 months. They need an area to have one being finished while another one lines up behind it and still not

intruding into the assembly of the big one. It is his opinion that the 100' x 100' configuration is the minimal size that he needs to accomplish what he's doing with his construction process.

Mr. Dennis reviewed the abutting property owners list with Mr. Gonzales and asked if he had contact any of the abutters. Mr. Gonzales stated that he has visited all of the three immediately abutting property owners and spoke with them about his plans.

In response to questioning by Mr. Kogan, Mr. Gonzales described in detail what is entailed in the prepreg boat building process, which entails baking materials in an oven, but does not emit any chemicals or chemical odors. Mr. Gonzales approached the plans and outlined in detail the assembly process areas in the building. Since being in the building they have "cooked" their product four times over the past year and have not received any complaints from neighbors about any odors emitting from their facility. After very detailed discussion of the products used in this assembly process, Mr. Gonzales confirmed that with respect to the manufacturing process, he does not believe that there will be significant emission of noxious odors, smells, vapors or chemicals.

Mr. Kogan stated that another thing that might be bothersome to neighbors is noise and asked that sometimes in assembling boats there are power tools used; and wondered if there would be power tools used in the proposed addition that might emit noise. Mr. Gonzales said that there will be sanders, there will be cutters, but they work pretty much from 7:00 am to 4:30; after their morning meeting the crew is on the floor by 7:30 a.m. They end production by 3:30 and clean up until 4:30. Yes, there could be noise, but no more noise that is there now; and they are in an industrial park. They like to keep the doors closed to keep out dust in order not to contaminate their fibers. He again described his business and stated that he can't say there won't be any noise; it's an industrial park.

Mr. Brian Almeida, 23 Peckham Place, abutting property owner spoke against the Petition. He stated that as far as having discussion with Mr. Gonzales, they were directly with his wife, not himself and the impression wasn't "it's what we want to do" , it was "it's what we will do". That was stated unequivocally. He stated that Mr. Gonzales has referred to the landscape that exists there as, "it's all going to go, because it ain't pretty", according to him. Mr. Almeida approached to Board and stated that he buffer was planted initially when the neighborhood was secured the following Spring of 1988; it was done to the requirements of the Town and at that point in time they approached Carol Marine. Mr. Almeida submitted photos for the Board to see the planting that are presently existing, including pines, Russian olive, which was dictated by the Planning Board as the proper buffer material to initiate the buffer. His wife and he approached Barry Carol of Carol Marine in 1988, who was the original owner of the property for about 20 years. And they asked with his permission if they could expand that buffer behind their property. When they initially looked at the property there that because of the grade lines, his property sits about 10 feet vertically above the lot located on Broad Common. Mr. Carol agreed and provided labor to help plant up there. They went to the Eastern Conservation District and got Spruce, Douglas Fur and planted all that out there. So what they've established over 30 years time is a buffer that consists of mature white pines that are 35 to 40 feet tall; white birch is in there, oak, choke cherry came in on a breeze, sugar maple, green maple, butterfly bushes, bee balm; they're pretty much taken care of by the natural briars, the raspberry and blackberry that's there. It provides food and cover for mammals, birds, raptors, owls, alot of mammal life and that buffer provides them six months a year with a solid green buffer, where they can't see any of that industrial area. Originally when they went to the Planning Board in 1988 they argued that the buffer should have been established across the property line on the industrial side; mainly because they would no need for that land to begin with, they wouldn't be

prone to interfere with the buffer. If you take some of the 10,000 square foot lot and you tell them you're going to give up 25 feet of your rear yard for a planting buffer, some may or may not like that idea. Some people might have been content with a fence. The other thing is that they haven't discussed the fence that they plan on planting there. They're arguing that they're going to come up onto his common property line, tear out 30 years worth of growth and put in 6 foot trees and put in a fence. They said they were caliper certain trees and if they pass some muster, which only they know... the whole thing is absurd. It's taken 30 years for that buffer to grow in and get to the point where it is now and it provides him relief. As far as activities of previous boat builders in the area, all he can say is that every one of them works the hours they're going to work to get their job done. There's no 7 to 4 in any of these businesses. He left his home that morning at 5:00 am to the sound of a grinder working metal at 5:30 in the morning. They know and they accept a certain amount of noise coming from the industrial park, but for anyone to sit here and tell you this is how we run our business 365 days a year forever forward; you're dreaming. They have a lot of issues with the proposal. First of all, most of the boat builders will say, oh we do all our work indoors; they don't. They work in the parking lot, they work with open doors and they can be a nuisance; there's no getting around it. Carol Marine, Outer Limits and Paul Amaral, out back there, he's dealt personally with every one of them and they never felt like they were being bullied or talked to. That's not the situation they get from the new owners, not in the least. It's all about quality of life. Now, a certain amount of promises were made back in the 80's regarding Peckham Place, some of them even bought assuming they would have Hope Street access; that never came to fruition, none of it did. So, the contention has been there all along that as you locate residential neighborhoods against industrial neighborhoods, you're always going to have some level of conflict, there's no getting around it. It seems like when the winds have blown towards industrial expansion in that

are, they've been all in for industrial. When the winds didn't blow right for certain developers, they put more housing. Before all of the complaints with the wind powered generator up on Gooding Avenue, in that neighborhood being adverse. Patton Associates, the plastic manufacturers, god awful smells come out of that place from time to time. The tape manufacturers over on Ballou Boulevard; you're going to get thermal inversions, you're going to get situation where fumes that would normally carry away on the breeze, they're not, they're going to stay, they're going to be located down on the ground level. He's sought relief from DEM a few times and they got quite frankly no response at all from them. This inversion is happening outside of normal business hours, good luck, where not monitoring it for you. There's very little enforcement of any of the activities that go on in most of these businesses up there. And he shudders to think that bringing them 100 feet closer to his property line, decimating that 30 year old buffer for no reason. They don't get any security out of it, as a matter of fact, they're perimeter is secured by a chain linked fence with barbed wire currently at that lower elevation level; yet they want to come up the hill and destroy his buffer and put in a fence that provides absolutely no security for them whatsoever. He just feels that he's been dictated to for too long and no one takes the objections or the needs of the neighborhood seriously in this manner. There's been no attempt at negotiation or appeasement at all. He can't leave with any confidence at all that the chain saws aren't going to go off tomorrow and they have been living on the edge for the last six months wondering when they're going to hear that chain saw. But based on what the Board decides, he has a feeling that it is coming and it is going to adversely affect the whole neighborhood.

In response, the Board had detailed discussion with Mr. Almeida on the buffer area and the size of the variance proposal.

Ms. Catherine Almeida, 23 Peckham Place spoke against the petition. She stated that she did meeting with Mr. Gonzales as he was wandering through the field in her back yard with someone else. So she went out and introduced herself. He said that he had neighborly meeting with the neighbors, but that wasn't the case. They got an anonymous letter put in their mail boxes, to current homeowner, sent by a accountant from Newport. Not signed, no greeted, he never came knocking on anybody's door, saying hey I'm you're new neighbor. She went to the Town when she found out that the letter stated that he had bought the property and she went to verify who NITO property were and the Town had no idea that Paul Amaral's place had even been sold. According to the Town records, Paul Amaral owned the place. That's how she started out. She went back to Paul Amaral to talk to him about it and he basically advised her to "watch out". He said he was really sorry, that things happen this way, if it was him there would be no hassles at all, but since he sold the property to this guy things went south with them and that's between them; but on the other end of it was now she meets Mr. Gonzales. Paul had already given her a heads up on how he would act; he'll be your buddy buddy, good pals. And he came in, "hi, I'm Tommy" and he's giving her fist pumps and he's telling her how he bought the property and all this is going to be great, he wants to put in an addition, he's solarizing. She asked him what his business was and he wouldn't tell her. And he said he wanted to be neighborly, and he said he was trying to gain maybe some government contracts and its really all hush hush. So she said she did government contracting for a while, so she understood, but you don't have to be hush hush and you don't put a government contracting thing to a neighborhood, or two. Then he told her he had big plans going, just upgraded all the electrical. They heard nothing but constant racket all summer long, digging, banging, sawing. He told her as he's looking at the buffer that they going to make it even better, they were going to wipe it all out and start fresh and it's going to look like a park, it's going to be beautiful.

Now the reason her husband said 30 years of growth, she's staring at you, you're the business, your spot lights are beaming on her back house; they're in her kids bedrooms when they were little. Now with that 30 year growth on their second floors, they can't see the building, the golf course, they can't see the cell tower, because the trees block that much out. That was the intent of the buffer, to give the neighbors green space. Not to look at buildings, not to look at a brick wall or a chain linked fence with barbed wire on top; because that's what he told her she was initially going to do. She had to get the Town to go out there and tell him he couldn't touch the buffer because of the covenant they all signed back in the 80's that stated that the buffer had to be there and that the neighbors were responsible for the upkeep of the buffer; and that's it was put in their care. She found out afterwards that Mr. Gonzales, when he bought the property in 2015 in the winter time, he was the gentleman who was wandering in the field for about ten or fifteen minutes. She went out to ask if she could help him and he just said, "no". He didn't introduce himself or say he bought the property. She asked if he was lost and he said know, so she asked if he realized he was on private property and he just looked at her and said, "do you own this land" and he pointed to his feet where he was standing. She said no, but she lives in this yard and he again said, "do you live here" pointing to the ground. And then he just wandered away. That's not neighborly, that's not a good introduction to the neighborhood and it was only by chance that she ran into him, because he was taking people through the field that she had for 30 years maintained for the betterment of the entire neighborhood, because it does cut down on the dust, it does cut down on the noise, it does cut down on the odors. It doesn't take care of it all, but it does some of that. Now part of meeting Mr. Gonzales was that he also told her about how he found out when he was putting his addition on that there was some nasties in the ground when they were putting the addition on that they uncovered. Consequently, Paul was being sued because of that. Even though he never used those type of chemicals.

So she's concerned that if he's going to be digging a big addition and he already found nasties, which he stated directly to her, whether truth or false, he told her that; why would they want him digging that all up and cutting it down so that everything blows into their neighborhood. If he wants to make that buffer zone very enjoyable for his business, he can certainly keep filling it up on his end and leave the existing and add to it. But to just wipe it out and make a start from ground zero is just ridiculous. She doesn't know why she's paid 30 years worth of taxes when she thought she was going to live in that house for the rest of her life; only to have to start again 30 years later.

Mr. Steve Ferriera, 51 Brook Farm Drive, spoke against the petition. He's lived in Bristol since 22 years and at Brook Farm back in 1992; the reason he stayed in Bristol is because they wanted to keep their children in Bristol and living a happy life. He knows they were talking about 1/8, 1/4 and 1/6; but at the end of the day when you start to look at how that was generated. Because ELJ came to the Town way back when in history and they gave him the variance of 75 feet, 100 feet off the house; that's why today they're here for this. Because when you look at the plans, he pointed out Brook Farm and then they have a hundred from their back yard and the Town gave him a variance and pointed out the red line on the plans. So the person affected the most is him. It was nice that the other people were able to get trees and all that good stuff and all he has is twigs. So, all of Brook Farm and the back of his neighbor's yards they all have five trees and six twigs going across the back and on the side it's the same thing. The only reason it looks half way decent is because he spends the time during the summer months cutting the brush back, so that it grows fuller. He agrees with the other neighbors trees keeping the noise out, but on his side he would like big trees. He needs the space and he gets that; but that little corner there, he wants two 45 foot doors on that side, so he can move the boats in and out. If the Board says no, he's going to build, but he's going to have to come in a little bit more if he wants the two doors. So when you look at the

red line on the plans, they come up ten feet he gets blocked again; so the best bet would be for him to stay within the line; he'll get his two doors and he loses 68 feet, which keeps all the noise away from the neighborhood. He presented pictures to the Board which shows the condition of the property in the back and he wanted to know where all the stuff back there will be stored. That's his biggest concern, because when you go around his house, all the junk is going to be moved to where he can see it and the resale value of his home will go down. He tried presenting a tape recording of noise he taped that morning when he left for work; however he admitted it was not coming from Mr. Gonzales property; it was the trash man dumping and another company grinding metal. But that is the things that need to be considered and plans need to be in place. At the end of his statement, he presented a letter of his concerns to the Board, which was marked as Exhibit A.

Mr. Joe Beretta, 67 Brook Farm Drive, spoke against the Petition. He stated that the talking is good, but they're not going to do none of that; he knows that because he's been there for 25 years and none of them; its a mess back there all the time. The arborvitaes don't work, they need to plant pine trees and make sure they're big and they grow. He used the recently planted arborvitaes planted on Metacom Avenue by a developer that have died. They need to take care of the buffer zone; it's all garbage and weeds and in the winter time when the leaves fall you can see all that mess in the back. The talk that he's going to work from 7 to 3; he's been in this country for 50 years and he's worked in a lot of factories, boats and all that; the resin, there's no such thing it doesn't smell, it smells. And he's not going to be working 8 hours. He's going to build \$7million boats, he needs to make a lot of money to pay for that and he's going to be working probably two shifts, three shifts and right next door he's not going to be able to sleep.

Mr. Arthur Manuel, 19 Peckham spoke against the petition. He stated he's not really sure about what is going on as far as the actual plan. His major concern is that if they remove all of that buffer zone, then they will have a clear view into that property. To him it's all about the property values; all the property values will go down and it's no good for anybody. His main concern is that and also that it is a very good buffer; you can't see in there and one of the main things that is attractive about the area is that you can't see the businesses. A lot of work has gone into that; he doesn't even know why they want to rip it out; has anybody asked him why. It doesn't effect is business, so he doesn't understand why he wants to rip it out. The other question is that they say they bake their product in and there was nothing mentioned about exhaust; is there any exhaust that goes with that and if there is, are there any exhaust pipes.

Mr. Gonzales confirmed that it is a closed loop.

Mr. William Pacheco, 52 Brook Farm Drive stated that he would like the Board to make a motion to have a work study on this whole situation that's going on. We don't know what kind of chemicals he's using, we don't know what he's doing with the buffer zones. Anyone can come to his house in his back yard and you can look into the property and all you see is forms, stuff laying away. He would like the Board to go out and do a study on what is going on out there.

Mr. Dennis stated that his client would like to respond and introduce some new testimony, which would perhaps explain some of what the Board has heard from the neighbors.

In response to issues raised by abutting property owners, Mr. Gonzales stated that he understands the concerns and can't for the life of him remember when he told anyone he was going to clear cut the entire area.

Mr. Dennis stated that it's been pretty well established that some of the existing buffer area exists on the residential lots; the properties owned by some of the people in

the audience. He was involved in the development of Peckham Place and remember the buffer being imposed on the residential when it was first approved. There was a split rail fence on the property line and those pine trees were practically shrubs were on the residential side. And, of course that's ancient history, back to the mid 1980's. However, he thinks that what everyone can agree upon is that some of the existing buffer is on the residential property and some of the existing buffer is on the manufacturing property that Mr. Gonzales owns. He asked Mr. Gonzales to tell the Board, under oath, that this buffer area has been a source of some contention between him and some of the neighbors; and tell them why and about the use of that are for something more than a buffer and something about his insurance company.

Mr. Gonzales stated he didn't recall buying the property and going in the back and walking around. His insurance carrier went back there and said that there was a lot of trees back there; a bunch of the trees have been cut down and logged. There were two gazebos back there; they have pictures, he sent them and was told it was a civil matter and needed to involve the police. Instead of doing that, he discussed it with his attorney and with his advisor who is an accountant from Newport. He was advised to send a letter and let them know. He had seen somebody back there logging the wood, but didn't know who it was. Right now there is piles of trees logged, there's trees that have been cut. The two gazebos have been removed.

Ms. Goins advised the Board not to go too far into issues that has very little relevance to what the Board is concerned with, which is a very narrow issue; not insurance issues or private land issues.

Mr. Dennis stated he would just like the Board to know the background to the emotions shown at this hearing.

Mr. Dennis continued and stated that getting back to the law and regulation; this buffer is under the jurisdiction of the Planning Board. The Planning Board approved the

landscaping plan, that requires either construction per the plan, or a bond; until such time as it is built. This buffer is being regulated. Common sense tells us that it's more expensive to go in and strip what's there and replant from scratch, then it is to simply augment what's there.

Mr. Kogan stated that he is very concerned about the exact plans on what is going to be done to the existing buffer.

Mr. Rogers stated its not the intent to remove the buffer; any of the large trees will remain. The arborvitae was a continuation along the property line to thicken and give more privacy to the neighbors. It will be cleaned up and thickened, but they have no intention of going on to the neighbors' property.

Mr. Dennis stated that he would like to talk about the Standards. This project could go forward without the relief, except for the fact that the owner has testified that this size is the minimum that he needs to operate. The first Standard is that the hardship is due to the unique characteristics of the land; not to the general characteristics of the surrounding area, and not due to an economic disability of the applicant. All of this stems from that very unusual jog that the zone district boundary takes. And clearly this, according to the architect is a unique characteristic. There's no question that the whole existence of this residential zone, next door to a manufacturing zone, is unique in and of itself.

The second Standard is that the hardship is not the result of any prior action of the applicant and is not the result primarily from the desire of the applicant to realize greater financial gain. There's no question that the applicant is in the business of building boats; that's his business. But, the hardship, once again, is not a result of the operation of the business, but rather that severe angular jog that the zone district boundary takes. And it probably bears worth repeating that we're talking about a very tiny corner of the proposed building.

The third Standard is that granting the variance would not alter the general characteristic of the surrounding area, or impair the intent of our Zoning Code or the Comprehensive Plan. No one disputes they're a manufacturing use in a manufacturing zone; that the 45 square foot triangle, if you will, intruding into that area is not going to have any significant impact on the general characteristic of the area. And as far as the Code and Comprehensive Plan are concerned, they're a manufacturing operation in a manufacturing zone.

The last Standard is that the relief that would be granted is the least relief necessary. And, again, on several occasions they heard Mr. Gonzales testify that this was really the minimum size addition that he would need to make this operation work. Whatever happens in the future, if he needs growth, is really beyond this hearing. What they are before the Board is this very specific 100' x 100' addition.

They are obligated to show that in granting this variance, if it were denied would suffer more than a mere convenience. And that's been interpreted to mean that what they want is a reasonable use of a permitted use of the property. A reasonable enjoyment of this permitted use. And, again, the great majority of this building is located far from this residential zone district setback like. With just a small tip of the northwest corner. It's their position that it would be more than a mere inconvenience, because they wouldn't be able to use this property reasonably for the use which is permitted in the manufacturing zone. They think it would be most reasonable to allow this 6 1/2 foot intrusion into that edge; just by virtue of the fact that the buffer was increased to 37 1/2'. None of this comes into play if they don't seek relief. And, of course, they are very willing to construct the landscaping buffer.

Discussion was held on what should be mandated in regards to the buffer zone and no expert was presented to afford testimony on the landscaping needs to satisfy both parties and what conditions, if any, should be imposed.

It was determined that the petition should be continued to the next meeting to give the Board time to go out together and observe the area in detail.

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MR. ASCIOLA: Can we have a motion to continue?

MR. KOGAN: I'll make a motion that we continue this matter for one month. That the Board schedule a view, when the Board can go out as a group, look at the property. Mr. Gonzales and his experts can be there. I particularly think that the arborist, whoever the designer of the landscape plan is, should be there. The neighbors could be notified as to when we plan this view; if they want to be there, they can be there. And then we act on the application at the November meeting.

MS. GOINS: So anyone who received notice tonight, if it is continued to a date certain, that is next month's meeting, which is Monday, November 14th; they will not get any mail...

MR. KOGAN: I wasn't talking about notice to regards to the meeting, I was talking about notice with regard to the view.

MS. GOINS: So that would not be required, abutters are not required to receive mail notice of the view; however it will be posted in accordance with the Open Meeting Law and open to the public. So, at least 48 hours in advance; that visit would be posted as an agenda of the Bristol Zoning Board of Review. But, abutters would not receive mail notice of that meeting.

MR. KOGAN: Okay, but would it be possible for the abutters to designate someone who could receive telephone notice from Mr. Tanner, as a representative to them, whoever wants to be there for the view, could be there for the view.

MR. TANNER: No problem. I recommend that they just call my office tomorrow and I'll be happy to send an e-mail.

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MR. GOINS: I think our Town Staff, always as a courtesy is happy to notify abutters of things like this.

MR. TANNER: It's going to us a few days for us to figure out a date and time that works for both the applicant and his experts and everyone. I'm sure it won't be this week, it'll be at least a week or two away.

MR. KOGAN: I made a motion.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: 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)

03 OCTOBER 2016

6. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. BRUM: Motion to adjourn, Mr. Chairman.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: 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 10:25 P.M.)

03 OCTOBER 2016

RESPECTFULLY SUBMITTED,

Susan E. Andrade
Shorthand Reporter
Notary Public

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 03 OCTOBER 2016

Date Accepted: _____

Chairman: _____