

TOWN OF BRISTOL
ZONING BOARD OF REVIEW MINUTES

Monday, January 18, 2017

The following petitions were received and were heard by the Bristol Zoning Board of Review on Monday, January 18, 2017 at 7:05 p.m. at the Bristol Town Hall, 10 Court Street.

Members present: Chairman Joseph Asciola, Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes, Mr. Charlie Burke, Mr. Derek Tipton (alternate) and Mr. Donald Kern (alternate)

Also present were: Andrew Teitz, Town Solicitor, Mary Ann Escobar, Court Reporter, Ed Tanner, Zoning Enforcement Officer, and Mr. Pimental, Building Official

APPROVAL OF MINUTES: Mr. Brum made a motion to approve the minutes from November 14, 2016 and December 12, 2016. Mr. Simoes seconded. The Vote was unanimous. Voting were Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes and Mr. Charlie Burke.

3. CONTINUED PETITIONS

2016-30 Renette Whitty

50 Sowams Drive

Dimensional Variance: to construct a 15ft x 24 ft. single story addition to the rear of an existing single family dwelling with less than the required front yard on a corner lot.

DECISION: Renette Whitty appeared before the board along with her builder, Joe Mello. Mr. Mello began by explaining that they had a few obstacles in the way of digging and foundation work on this property. After the backhoe fell into an old septic, they discussed making it a three bedroom, since the current house is a very small two bedroom property. They talked to Mr. Tanner about this and that's when they discovered they didn't have the required setbacks due to the road width of 50 feet. So they immediately stopped construction and have come before the Board this evening.

Mr. Kogan asked questions about the amount of bathrooms and the size of the addition. They currently have one bathroom and two bedrooms and wish to add another bedroom and bath. The addition is going to be 375 square feet, 15 by 24.

Mr. Mello stated the home prior to the addition is 900 square feet, very small home and they really needed this addition. The house was built in the 1950's and as such needs this upgrade.

Mr. Brum made a motion stated verbatim as follows:

"I would like to approve the dimensional variance to construct a 15 by 24 single story addition to the rear of an

existing single family dwelling less than the required front yard on a corner lot. The hardship in which the applicant *seeks this variance is* due to the unique characteristics of the subject land, its structure and not the general characteristics of the surrounding areas or the economic disability of the applicant.

As we have concluded the lot is unusually configured or the house is unusually configured upon the lot. The lot dimensions on one side are clearly not within the ordinance and to the point of the applicant the house was probably constructed before the ordinance was actually put into place. The western portion of the house is askew and the lot line is configured in a manner which the house is not going to further impede or continue in the present line that it is constructed.

The hardship is not the result of any prior action. The applicant didn't build the house. There is no desire really here for a financial gain other than adding a bedroom on a 900 square foot house which is already a small house and a bathroom addition. Given the size of the *home* and the *reasonableness* of the size of the *home*, in that community I think it would not be uncharacteristic for a *home* to be enlarged in such a fashion. The bulkhead is *facing* the driveway side which *really* is quite practical and makes sense because if you were going to take

anything into the bulkhead I would assume would you do it from the driveway. Not from anywhere else.

So in granting this request, for this dimensional variance will not alter the general characteristics of the surrounding area or impair the intent and purpose of the zoning ordinances or the Comprehensive Plan of the town. If you look at the neighborhood, all the houses there are pretty much configured in a similar fashion and these houses were built prior to these dimensional variances were put in place. I believe it to be the least relief necessary and that the hardship for the owner would be more than a mere inconvenience.

On these particular points, I would like to request approving the variance.”

Mr. Kogan seconded. The Vote was unanimous. Voting were: Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes, and Mr. Charlie Burke

DECISION:
2016-21 Prazeres Management Co. Inc. Gooding Avenue and Hope Street
Special Use Permit: to construct a drive-thru service window for a proposed 1,100 square foot freestanding Dunkin Donuts restaurant; and Dimensional Variances: to install a directory sign and two wall signs at sizes larger than permitted in the General Business zoning district.

DECISION: Mr. Joseph Asciola and Mr. David Simoes recused themselves from hearing this petition. The Alternates Mr. Derek Tipton and Mr. Donald Kern will be taking their place on this matter. Mr. Bruce Kogan sat as Chairman for this petition.

Mr. William Dennis appeared before the Board this evening on behalf of the petitioner and stated as follows: “A little bit of history like the last matter before the board this application comes to you by way of the Bristol planning board. The project is currently under an application for a major land development under Bristol review regulations and in concept this process began over a year ago. The project and its plans were first presented to the department of community development. It then

proceeded through the technical review committee process for about 8 months. This development has been reviewed, modified, and approved through and with the input of the technical review committee as well as the town's engineers at Caputo and Wick. This development plan received the unanimous approval and recommendation of the technical review committee. It received a unanimous approval of the master plan by the full planning board of the Town of Bristol and also by unanimous vote the planning board has recommended that this honorable zoning board of review approve the subject special use permit as well as the signage variances that we seek tonight."

Mr. Dennis requested to mark the Town's file as Exhibit A for this matter. Mr. Dennis' concern is that it forms the basis of the planning board decision which is part and parcel of why we are here tonight Mr. Kogan advised Mr. Dennis that is not normally something they would do. He stated that the application and its attachments are already part of the proceeding and asked Mr. Dennis if he wanted to mark the decision of the Planning Board as Exhibit A.

Exhibit A, Planning Board Decision dated July 12, 2016, was marked.
Exhibit B, Zoning Application with attachments, was marked.
Exhibit C, Resume of Todd Ravenelle, was marked.

The first witness presented by Mr. Dennis was Todd Ravenelle, Engineer. After presentation by Attorney Dennis of Mr. Ravenelle's educational background and experience, the Board accepted his as an expert witness.

Mr. Dennis requested that Plan Labeled C5, Sheet 5 of 11 be marked as an exhibit. The Board questioned if this drawing is the same one as in the packet provided. Mr. Kogan suggested marking the larger plan as Exhibit D for identification purposes only until it is proven it is identical in substance to the smaller version in packet labeled Exhibit B, C-5.

Exhibit D, Large Plan, was marked for identification only. Mr. Ravenelle testified that the large plan and the smaller plan are substantially the same except for the dates. Mr. Dennis requested that the Large Plan be marked as Exhibit D.

Mr. Ravenelle testified as follows: His firm was hired by Prazares to design the new layout of the proposed drive-thru window. He stated that he has reviewed the Bristol Zoning Code Sections (which there are two) that outline special use standards for drive-thru windows. Mr. Dennis then asked Mr. Ravenelle to go through the requirements with him.

The following are questions from Mr. Dennis to Mr. Ravenelle:

1. Does the proposed plan satisfy the parking requirements outlined in the Bristol Zoning Code?
Answer: Yes, it does.
2. Are there any loading space requirements for this particular project? Answer: No, based on the size of the building. The building is not large enough for it.

3. Does this plan have required amount of stacking spaces in accordance with our code for exiting the site? Answer: Yes, it does. It provides the required ten car spaces. We actually depict 12.
4. Does your design as depicted on this site plan provide that the service window is located to avoid any effect on off-site vehicular or pedestrian traffic? Answer: Yes, it does.
5. Is the service window located on a front facade facing a primary street? Answer: No, it is not.
6. Does the design include a bypass lane with a minimum width of 10 feet? Answer: It does. It provides an 11-foot by pass lane.
7. Is the drive-thru lane physically separated from off street parking areas? Answer: Yes, it is.
8. Is the drive-thru lane striped, marked, or otherwise delineated? Answer: Yes, it is. It's striped and delineated.
9. Is the drive-thru lane buffered against adjacent land use? Answer: Yes, it is. It provides a landscape buffer to the north.
10. Is the menu board or informational boards facing away from public rights of way? Answer: Yes, they are.
11. Is the lot area a minimum of 40,000 square feet? Answer: Yes.
12. Now, in your study and analysis of the other buildings and uses on this site and once again, the entire shopping center is what I'm referring to here, have you concluded that there is more than the required number of parking spaces for all of the uses including the proposed restaurant? Answer: Yes, we have.
13. In your study and your analysis of this site, have you become aware of any zoning violations that might exist on any of the buildings or uses on this site? Answer: I'm not aware of any existing zoning violations on the property.
14. Is the proposed use of a drive-thru restaurant a permitted use in this general business zone under the permitted use section of the Bristol Zoning Code? Answer: Yes.
15. The proposed development would it have a negative impact on the general character of the surrounding area? Answer: No. The project is proposed within the retail place.

Exhibit E, email from Fire Chief to Dianne Williamson, was marked.
Exhibit F, Copy of minutes from Technical Review Meeting dated June 28, 2016

Mr. Ravenelle explained that there were four concerns in which the Fire Chief addressed in his letter. They are: 1. The island depicted in some of the preliminary conceptual plans be removed. 2. The Fire Code requirement of 13 feet 6 inches for overhead signs. 3. Having a retaining wall against the Fire Station and 4. Provide ballards in front parking spaces in front entry to protect from vehicles. All four of those concerns have been addressed.

The Board members upon looking at their plan dated August 16 and the Planning Board made their decision July 12 and questioned whether the Plan marked as Exhibit D is the same. Mr. Dennis stated that upon Mr. Spear's advice they will withdraw their Exhibit D and just go with the plan that the Board has in their packets. Mr. Ravenelle stated that the only difference he can see on the plans was in regards to the striping in the parking lot. The planning board thought that some of the striping was confusing. So they took that recommendation from the planning board and removed the striping.

Mr. Kogan asked for clarification on the point in which Mr. Ravenelle answered in above question 11 regarding 40,000 square feet. Mr. Ravenelle explained that that total includes the entire plaza and not just Lot 2 alone. Lot 2 alone is only 12,000 square feet. Mr. Kogan asked Mr. Ravenelle what he used for the basis of his conclusion this does not alter the general surrounding neighborhood. Mr. Ravenelle described that it does not due to it's in a retail plaza and would not impact the surrounding retail businesses within that plaza. Mr. Dennis asked him to further explain why he has that opinion. Mr. Ravenelle stated that this plaza is ten acres and this proposal is only 1,100 square feet and for that reason it does not alter the surrounding 10 acre general business site.

Mr. Al Mansino, Architect, appeared before the board. After presentation by Attorney Dennis of Mr. Mansino's educational background and experience, the Board accepted his as an expert witness.

Exhibit G, Resume of Mr. Mansino, was marked.
Exhibit H, Color rendering, was marked.

Mr. Mansino stated that the normal Dunkin Donuts in which he designs is more of a box shape, a simple box shape. After meeting the technical review committee, they realized that the Town of Bristol didn't like that shape at all. So Mr. Mansino explained that they designed this building to be more of a residential looking type building to blend in. The siding will be a light brown clapboard and the roof shingles a brown color. The drive-thru section will be designed to include imitation like windows to enhance the look.

Exhibit I, Minutes of meeting from Technical Review Comimtte dated May 10, 2016, were marked.

Exhibit J. Black and White enlarged blow of up of portion of Exhibit B of application, was marked.

Mr. Mansino discussed the signage in which corporate mandates for all Dunkin Donuts franchises, color schemes, and size. Mr. Mansino also stated that the height for this building is 22 feet 6 inches, which is in fact smaller than is allowed in the ordinance. Again, he wanted to maintain the look and feel of a residential type looking building.

Mr. Dennis asked Mr. Mansino based on his expertise due to the unique characteristics of this land and the structure that is only 22 and a half feet high, existing at an elevation two and a half feet lower than Hope Street, having a building that's 80 feet from Hope Street and over 200 feet from Gooding Avenue whether this applicant suffers a hardship from these factors. Mr. Mansino stated in his opinion they do have a hardship. They need to have an enlarged sign for it to be seen and to be legible to patrons.

Mr. Mansino also stated that in his professional opinion the variances for the larger signage will not impair the intent of the Comprehensive Plan, nor will they alter the general characteristics of the surrounding neighborhood. He believes these are reasonable requests for the applicant to enjoy the use which is permitted in this zone.

Mr. Joseph Prazeres appeared before the board and stated as follows: He is a half owner of this particular Dunkin Donuts, along with others in the area. He has been in the business for 30 years and opened his first one 25 years ago. He is heavily involved in the day to day operation of these businesses.

He described that the hours deemed the busiest for his businesses are 6:30 a.m. to 8:30 a.m. usually. This particular Dunkin Donuts has been in this plaza for 11 years. It is a 2,500 square foot building and it currently has no drive-thru. The new building will be about the half of the size of the current one. He would like to have hours for the new store from 5:00 a.m. to 11:00 p.m. and see how that goes. He does have stores in which he closes at 8:00 p.m. due to the lack of sales after that time.

Mr. Dennis asked Mr. Prazeres some questions about the current parking situation. Mr. Prazeres stated that there are some cars that park right along the front of the building where there is a fire lane and leave their car running as they run in and grab their coffee. He is expecting that when the drive-thru opens, that will eliminate that problem. Mr. Prazeres stated that a drive-thru is a convenience for many people, especially mothers with young children and in bad weather where people don't want to walk into a store and leave their car.

When asked about the wait time in line, he stated that his store has an alert that tells the workers when they are running too slow and that helps speed up their service. He also makes sure he has more staff in the peak hours, which are morning, to avoid any such problem. He does not foresee any unduly long lines which would cause any problems in the plaza.

Mr. Dennis stated he has two more witnesses, Joseph Giordano, traffic engineer and Joe Lombardi, Certified Land Use Planner, but Mr. Kogan stated that due to the time of night, we should continue this matter until February 8, 2017. This date will be a separate date just for this petition.

A letter written by Steven Contente to the Board was read into the record. The letter was regarding Mr. Contente inquiring to the R.I. Ethics Commission as to whether he could participate in this petition. He requested this matter remain open until after February 7, when his hearing from the Ethics Commission would take place.

This matter was continued to Wednesday, February 8, 2017 at 7:00 p.m.

4. NEW PETITIONS

2017-01 Matthew A and Janet L. Calderiso

Bay Street

Dimensional Variance: to subdivide an existing parcel into two lots, one of which would contain less than the required lot frontage; and to construct a new single family dwelling with less than the required front yard and less than the required rear yard.

DECISION: Attorney William Dennis appeared on behalf of the applicant this evening. Along with him was Mr. Matthew Calderiso. Mr. Dennis stated that they were here this evening requesting a dimensional relief, specifically a 10 foot front setback variance, a 10 foot rear setback variance and a frontage variance of 30 feet. This subdivision was before the Technical Review Committee of the Planning Board, in which they gave a unanimous recommendation for approval.

Mr. Dennis also explained that this lot is very uniquely configured. The lot is approximately 60 feet wide. It's approximately 136 feet deep. It's got over 8,000 square feet and it exists in an R6 zone. Unique feature of this particular parcel is that it sits at the butt end of Bay Street and for that reason, it has been determined that what would be used as a side yard is actually the front yard. What is in actuality a side yard is considered technically under the code a rear yard. And of course the front and rear become sides and it's simply because rather than this lot sits on the northerly side on Bay Street or on the southerly side of Bay Street it sits at the butt end of Bay Street.

Mr. Calderiso stated that he purchased a lot behind his property from a neighbor and was required by the planning board at the time to merge it into his property making it one parcel. He would like to build a single story approximate 40 by 60 home with a 2 car garage and then once that is constructed, he will sell the house at 12 Bay Street. He has lived there 30 years and the only problem the town has had with this street is during the winter. When they plowed, they would just leave the piles at the end of Bay Street. Mr. Calderiso stated he is willing to deed over to the town a spot designated as a snow dump area to leave the snow in the winter.

Mr. Burke made a motion stated verbatim as follows: *"I will make a motion to approve the application based on the following testimony and evidence. The hardship from which the applicant seeks relief is due to the unique characteristics of the lot that was merged via ordinance and that's been reversed by the same board, the planning board. It's not due to the general characteristics of*

the surrounding area nor to an economic disability of the applicant.

The hardship is not the result of any prior action of the applicant and does not result primarily in the desire of the applicant to realize greater financial gain. There is no other way to use this property except to grant the subdivision and this relief that is requested before this board.

The granting of the requested dimensional variance will not alter the general characteristics of the surrounding area or impair the intent or the purpose of the zoning ordinance or the Comprehensive Plan of the Town of Bristol. It's a very unique neighborhood and a unique street with a lot of history. Many of the houses on there would be nonconforming to the current ordinances. It's the least relief necessary as mentioned before. There is no other way to effectively use this parcel without granting this relief.

The hardship that would be suffered by the owner would make the land unusable so it would be more than an inconvenience. The specifics of the relief are for relief for 30 feet of street frontage and 10 feet of relief from both the front lot line and the setback and the 10 foot rear setback. I so move."

Mr. Brum seconded. The Vote was unanimous. Voting were: Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes, and Mr. Charlie Burke.

CORRESPONDENCE:

Request for extension of time of Joseph T. Murray, 7 Fairview Drive, File No. 2014-33. Mr. Burke made a motion to grant extension one year from today. Mr. Simoes seconded. The Vote was unanimous. Voting were: Mr. Joseph Asciola, Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes, and Mr. Charlie Burke

CONCLUSION OF ZONING BOARD OF REVIEW MEETING:

The Chairman entertained a motion to adjourn. Mr. Brum made a motion to adjourn. Mr. Kern seconded. The Vote was unanimous. Voting were: Mr. Bruce Kogan, Mr. Tony Brum, Mr. David Simoes, Mr. Derek Tipton, and Mr. Donald Kern.

Whereupon the Bristol Zoning Board of Review meeting was concluded at 10:36 p.m.

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through 11 are complete, true and accurate to the best of my knowledge, skill & ability.

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

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 24th day of February, 2017.

Mary Ann C. Escobar, RPR

My Commission expires: September 30, 2016.

Minutes of January 18, 2017

Accepted by:

_____, Chairman

* * * * *

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