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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES

THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

06 MARCH 2017
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. DEREK N. TIPTON, Alternate
MR. DONALD S. KERN, Alternate

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

Susan E. Andrade
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Bristol, RI 02809
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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:

18 JANUARY 2017
06 FEBRUARY 2017
08 FEBRUARY 2017

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- MR. ASCIOLA: The first order of business will be the approval of the January 18th and the February 6th meeting. We do not have the minutes of the February 8th meeting yet.
- MR. SIMOES: Mr. Chairman, I'll make a motion that we accept both copies of the minutes of January the 18th and February 6th.
- MR. TIPTON: Second.
- MR. KERN: I have some corrections on the January 18th meeting; on page 3, I believe in the next to the last paragraph, Mr. Tipton's name is Derek and not Donald. On page 5, paragraph 11, there's a dollar sign in front of the 40,000 square feet; it should be deleted. Page 7; it should be 6:30 am to 8:30 pm.
- MR. SIMOES: Make a motion to accept with corrections.
- MR. ASCIOLA: All in favor?
- MR. TIPTON: Aye.
- MR. SIMOES: Aye.
- MR. ASCIOLA: Aye.
- MR. KOGAN: Aye.
- MR. KERN: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Minutes Accepted)

2. 2017-04
BRIAN J. SADLER

363 Poppasquash Rd.: R-40
Pl. 177, Lot 82

Continued...

Dimensional Variance to construct an interior hallway connection between an existing single-family dwelling (currently under construction) and an existing 24' x 36' accessory garage structure with less than the required left side yard.

The Board acknowledged a request from Petitioner to continue the matter to the April meeting; and that it may require a re-advertising, because it may change the variance that is needed.

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MR. KOGAN: I'll move that we continue the Sadler matter until April 3rd.

MR. ASCIOLA: I'll second that. All in favor?

MR. TIPTON: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

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3. 2017-05
JUDY L. & DAVID P. LAKE

41 Duffield Rd.: R-10
Pl. 80, Lots 181, 182 & 183

Dimensional Variance to construct a 456 square foot (approximately 16.5' x 26.5') master bedroom and bathroom addition to the rear of an existing single-family dwelling with less than the rear yard.

Attorney Andrew Teitz recused himself from this matter.

Mr. David Lake presented the Petition to the Board. He explained that they would like to add on to the back of the garage a bedroom, a bathroom and new steps to the new basement area. The addition will include a new basement area opening up to the existing basement. They also would like to include renovation to the existing kitchen, whereby the kitchen becomes larger. By doing that they will lose one bedroom. And with keeping with the neighborhood, they would like to have three bedroom and two bathrooms, as opposed to what they have now, which was built in the 50's. It will give them the opportunity to entertain and allow visitors and relatives from out of State come and stay with them.

The Board reviewed the plans in detail. Mr. Lake confirmed the addition would be going out in the area which is presently a deck area. The deck will be removed and that entire space will be part of the land required for the addition. Then there will be a patio at the current level that the land is at now. It will not be a deck, it will be an on-ground patio with possible paving stones. The variance is 3 feet from the normally required 30 feet and he would like to build within 27 feet of the rear property line. He also confirmed that they acquired the property 4 years ago.

Mr. Kogan noted that the property consists of lot 181, 182 and 183 and that lot 181, which is to the west of the developed area. Mr. Kogan noted that the zoning enforcement officer has informed the Board that it is his opinion that all three lots have been merged as a result of common ownership. Mr. Tanner confirmed that they are merged under the zoning ordinance; they're non-conforming lots in common ownership. They should be treated as one parcel for purposes of this application, as one 15,000 square foot parcel.

Mr. Kogan asked if it was Mr. Lake's contention that lot 181 is a separate buildable lot. Mr. Lake answered, no, it's a separate lot, but doesn't believe that it meets the standards for building. They pay

taxes on all three lots separately, but 181, as he understands is non-conforming with regard to R-10 zoning. Mr. Lake confirmed that it is not his contention that he could sell lot 181 as a separate buildable lot. He is in agreement that the lots have been merged into a single 15,000 square foot parcel for zoning purposes; but they do pay taxes on three separate lots. Mr. Kogan asked if Mr. Lake is aware that if he went to the Town Assessor, they would merge the lots and that could result in a reduction in the real estate taxes. Mr. Lake stated that they are aware and that they are not ready at this point in time to address that issue.

The Board discussed other design options, including putting the addition on the West side of the house. Mr. Lake explained a number of reasons on why it would not be feasible to change the plans; including that aesthetically to the neighbors, it could possibly be on what is now a nice vista. The design presented would produce a better flow throughout the house.

Mr. Arthur Franco, 46 Kingswood, abutting rear property owner, spoke in favor of the Petition. The Lakes have been there for about four years and have been great neighbors. He built his house and have lived in the neighborhood since he was about 7 years old. As far as what the Lakes want to do is fine with him after speaking with the Lakes; they're going to improve the property and the neighborhood. They're good neighbors, they keep their property clean. They have a beautiful garden; they take care of it, they're good people and he's totally for it.

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MR. ASCIOLA: Would anyone like to speak against? Now, can we have a motion from the Board, please?

MR. SIMOES: Mr. Chairman, I make a motion that we grant the 3 foot variance to the applicant. The addition will be 27 feet from the back boundary line. This was not caused by any prior action of the applicant. It won't affect the characteristics of the surrounding area. If anything, it will improve the characteristics in the surrounding area. And it's also the least amount of help that he needs; 3 foot would be about all that he needs to have the addition put on . For that reason, I ask that we grant the application for a 3 foot variance on his back property line.

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MR. KOGAN: Second.

MR. ASCIOLA: All in favor?

MR. TIPTON: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Approved)

4. COLBEA ENTERPRISES, LLC

579 Metacom Ave.: GB
Pl. 108, Lot 10

Special Use Permit and Dimensional Variances to raze an existing gasoline service station and convenience store, and to redevelop the property with a new Seasons Corner Market building, gasoline pump island, canopy, underground storage tanks, parking and landscaping; and for the number and size of new commercial signage within the General Business zone; and for driveway spacing, parking location and building setback dimensions that do not comply with requirements of the Metacom Avenue Overlay zone.

Mr. Richard DeFusco, Registered Landscape Architect, Project Manager, and Mr. Angelo Ruo, presented the Petition to the Board. Mr. DeFusco explained that they are proposing to raze the existing gas station and construct a new food mart building, a new pump island and dispensers, new underground storage tanks, all new pavement, sidewalks, curbing, landscaping, utility connections and associated signage. The existing ID sign will only be refaced. He referred to the packet submitted for a broken down description of the entire project, which he reviewed in detail with the Board. There will be no drive thru window for either the Seasons food mart or the co-brand, which would be something like a Dunkin Donuts or Subway; some additional service at the location. It will be very similar to the one located on Rtes 6 and 138.

Mr. Kogan reviewed the requirements of the Special Use Permit, under Section 28-150 (a) and (a) (2) in detail with the applicant. He acknowledged that a gas station is permitted in a GB zone, by Special Use Permit. After a detailed discussion, Mr. Kogan noted that the only two special use standards for a service station that need relief are the setback from the interior lot lines, which also may need relief from the overlay; and the southern curb cut, which is larger than the maximum width permitted of 25 feet; otherwise they meet all the requirements.

Mr. Kogan noted asked if it was also their testimony as the designer of the project, that granting the Special Use Permit, to allow a rebuilding of what is an existing service station would not alter the general character of the surrounding area or impair the intent of purpose of the Town's Comprehensive

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Plan. Mr. DeFusco stated he was correct, it has been a service station since 1965 and provides a valued service to the community.

In regards of the wetlands behind the facility, Mr. Tanner stated that they have to get a permit from the Department of Environmental Management. Mr. DeFusco confirmed that they have already applied to DEM and it is still under review, as well as the RIDOT application.

The request submitted for dimensional variances was reviewed in detail:

Dimensional variances:

Section 28-285. — Route 136 (Metacom Avenue) overlay:

(4) Development design standards b. Commercial, mixed-use and multifamily residential developments:

1. Driveway and roadway spacing. With a posted speed limit of 40 to 45 MPH, the minimum spacing between driveways requires 230 feet, while 130' is proposed. This is a pre-existing condition, and is due to the unique characteristics of the lot and the gasoline station use which requires a large tanker truck to access the site and acquire a specific position to fill the underground storage tanks.

4. Parking location. All parking areas are required to be located to the rear or side of the building. Parking is proposed in front of the building, and is due to the unique characteristics of the lot, which is limited in depth and contains a wetland.

6. Setback. A maximum 50-foot setback from Route 136 is required. A setback of 83.4' is proposed, and is due to the unique characteristics of the lot use as a Gasoline Service Station, with pump islands directly accessible and visible to the roadway.

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ARTICLE X. — SIGNS Section 28-373. —

General Requirements. (b) Number of signs.

(1) One wall sign per use is allowed, with two uses in the building including the co-brand. Four (4) signs are proposed, due to the unique characteristics of the Gasoline Service Station use of the building, which includes retail gasoline sales, as well as convenience market items and an additional use yet to be determined, as well as one informational 'Welcome' sign above the entry doors. One canopy sign is allowed, while two are proposed, due to the placement on the corner lot.

TABLE 1 SIGNS BY TYPE AND BY ZONING DISTRICT

Wall sign area: 15 square feet allowed. Total of 113.4 square feet proposed, due to the unique characteristics of the Gasoline Service Station use of the building, which includes multiple uses and sufficient visibility to the street to inform customers of the offerings available.

Canopy sign area: 6 square feet allowed. Total of 32.0 square feet proposed, due to the unique characteristics of the Gasoline Service Station use of the canopy, which requires sufficient visibility to both Metacom Avenue and Gooding Avenue and is positioned high overhead to allow clearance to larger vehicles.

Freestanding sign:

Area: 15 square feet allowed. Total of 96.0 square feet proposed. The sign area is a pre-existing non-conforming condition, which is to be refaced with the same area as existing.

Height: 12 feet allowed, 21 feet proposed. The sign height is a pre-existing non-conforming condition, which is to be refaced with the same height as existing.

Ground Clearance: 8 feet required, 6 feet proposed. The sign ground clearance is a pre-existing non-conforming condition, which is to be refaced with the same ground clearance as existing.

Setback: Minimum 10 feet from lot line required, 3.5 feet proposed. The sign setback is a pre-existing non-conforming condition, which is to be refaced with the same setback as existing.

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MR. ASCIOLA: There is no one present to speak for or against the Petition, so can I have a motion from the Board, please.

MR. KOGAN: Mr. Chairman, I'm going to make a motion, it's going to have multiple parts, since the applicant is asking for multiple forms of relief. First part would be with respect to the Special Use Permit, to permit a gasoline service station in a General Business Zone, at the present location at Gooding and Metacom. The motion that I'm going to make is that we grant this Special Use Permit to allow the applicant to continue to operate as a gasoline service station in a GB zone. A gasoline service station is a permitted use in the Use Table for a General Business zone. It is authorized by the Zoning Board of Review for the issuance of a Special Use Permit. And the requirements for a Special Use Permit include both general requirements for any Special Use Permit, and also specific requirements for a gasoline service station. So, with respect to the general requirements; the applicant has demonstrated that the general requirements in Section 28-409 (c) (2) are satisfied. That is that the Special Use requested is specifically authorized by this Chapter in Section 28-82. The next general requirements is that the Special Use meets all of the standards in the subsection, which I'm going to get to in a second. And the third general requirement is that granting of the Special Use Permit will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Ordinance or the

Comprehensive Plan of the Town. The applicant testified with respect of not altering the general characteristics of the surrounding area. This location is a commercial zone, with commercial uses both to the north and south of the location on Metacom Avenue. And that on all four corners of that intersection of extensive commercial uses, including a shopping center, a bank, drug stores and supermarket, paint store, chicken sale place; that there are significant commercial uses. The applicant also testified that this location has been used as a gasoline service station for in excess of fifty years, since 1965. And that there would be no alteration of the general character of the surrounding area to grant this Special Use Permit for them to be able to continue the use as a gasoline service station, with an incidental convenience store. The specific Standards, and set forth in Section 28-150, for gasoline service stations and gasoline sales; the applicant testified that most of those are satisfied by its application. However, there are two instances where variances are going to be required, and I'm going to move that we grant those variances. So, the first Special Use requirement is that the minimum lot size be 10,000 feet. The applicant's testimony was to the effect that the lot size was 27,268 feet; definitely in excess of the minimum lot size. The minimum lot depth required by the ordinance is 100 feet. And the applicant's testimony was that the actual lot depth is 135 feet; satisfying that requirement. The minimum lot frontage and width shall be 100 feet. And, as testified to by the applicant and as demonstrated in their exhibits, is 200 feet wide along Metacom by 135 feet on Gooding; in excess of the minimum 100 in each direction. The next special requirement is that no other principal use may located on the

property. The applicant's testimony is that the sole principal use would be as a gasoline service and sales business, which today constitutes sale of gasoline and petroleum products; but also normally includes a convenience store, which is what the applicant is proposing to build, or rebuild on the location, since it is currently a gasoline service business with a smaller and out of date convenience store. The minimum setback from all street lines, according to the Special Standards is 40 feet. And the applicant testified that the minimum setback to the building shall be approximately 83 feet. Therefore meeting that requirement. The setback from all interior lot lines is to be 20 feet. The building is only 15 feet from the rear property line, or perhaps side property line, depending on how you look at it, at the rear of the building; and that would require a variance of 5 feet, which I am proposing that we grant, given the unique characteristics of the lot, both in terms of its size and the presence of wetlands on the portion of the property, requiring the building to be located at the proposed location. The next Special Standard is that curb cuts be a minimum distance between curb cuts of 20 feet; that appears to be met, since the curb cuts are along Metacom 130 feet distance from one and other. The maximum width of a single curb is supposed to be 25 feet. Two of the three curb cuts comply with that, however, the southern curb cut on Metacom is a width of 32 feet; in part because that's its present width, but also in part because of the necessity for the gasoline tanker trucks that are going to be delivering fuel to this location to be able to maneuver around a left hand turn out of the lot back onto Metacom. So that would require a 7 foot variance, which I am proposing that we grant, with respect to that Special Standard. The next requirement is that

there be a minimum setback between pump islands, compressed air connects and similar equipment of 20 feet. And the applicant's testimony was that that Standard is satisfied. It is also depicted on the drawings of approximately 26 feet. The minimum setback between the canopy and the street line is to be 12 feet; and the applicant's testimony and the drawings demonstrate that the distance is 16.4 feet; satisfying that Standard. The minimum Standard between any canopy and interior lots lines is also satisfied, because of the placement of the canopy in the front of the building and the depth of the lot. So, all of the Standards, both and general and specific are satisfied, except for the two with respect to which I'm moving that we grant variances. So, for all of those reasons, I propose that we grant a Special Use Permit for the operation of a gasoline service and sales business in a General Business Zone.

MR. ASCIOLA: I second that. All in favor?

MR. TIPTON: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Opposed? Okay the Special Use is permitted.

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MR. KOGAN: Next the applicant has requested a series of dimensional variances and has offered testimony and drawings into evidence to support the granting of those variances. All of those variances arise as a result of hardships due to the unique characteristics of the subject land and not the general character of the surrounding area. That hardship takes into account the

location of the business in a commercial zone and the operational needs of the business and the fact that this is a pre-existing non-conforming business; many of the aspects of which are dictated by its pre-existing operations and the intended upgrading of the business, which will contribute to an improvement of the commercial zone along Metacom Avenue. So the first requested variance has to do with the requirements of Section 28-285. The specific dimensional requirements within the Route 136 Metacom Avenue Overlay zone. The first of which is that minimum spacing between driveways be 230 feet distance; and the applicant is proposing to retain along Metacom Avenue the current spacing between the two driveways, the north and south driveway on Metacom Avenue, at 130 feet. First of all the size of the lot is only 211 feet frontage along Metacom Avenue; it would be impossible to maintain 230 feet distance between those driveways. It also, there was testimony from the applicant with regard to how gasoline deliveries are going to be made by large tanker trucks and that that presents safety needs, as well as traffic needs, which require the retention of the existing location and width of the various driveways on the property. The applicant did testify that the Gooding Avenue driveway is being relocated slightly; that doesn't really implicate this 230 foot spacing requirement; but the applicant did testify that the new slightly to the west along Metacom was done in conjunction with direction from the Rhode Island Department of Transportation, in order to not compound the problem with stacking of vehicles heading east on Gooding Avenue and stopping for the traffic light at that intersection. So, I would move that we grant the variance with respect to that minimum spacing between driveways, because there is a

hardship; you can't have 230 feet of spacing on a lot that is only 211 feet wide. The next variance that the applicant has requested is for the location of parking areas, which are proposed to be to the rear and the side... which the Ordinance requires to be at the rear or side of the building and the applicant is proposing that the parking areas be on the side and front of the building, in part because of the location of the building on the lot, which had previously alluded to was dictated by the size of the lot, the nature of the operation and the presence of wetlands on the property. So that there is a hardship arising from those unique characteristics, which would justify allowing parking in the front of the building. It's also, these days, customary in the line of business that the applicant is operating, where you have pump islands near the street and the convenience store building set further back, with parking along the front. That seems to be the industry standard these days. The next variance that the applicant is requesting is with regard to the maximum setback of the building from Metacom Avenue. The Overlay Zone normally requires a maximum of a 50 foot setback; but the applicant is proposing a setback of 83.4 feet, due to the unique characteristics of the lot, its existing use, which the applicant intends to continue, as a gasoline service station, which require the pump islands to be directly accessible to traffic. Yet, if the building would be required to be only 50 feet from Route 136, it would present significant traffic flow problems; probably making it impossible for the applicant to continue to operate at this location and to invest the significant amount of money in the rebuilding of this station to its contemporary and much improved look. The next area of variances that the applicant is requesting is in regard to signage on the

building. The applicant has submitted two different sign plans; one in regard to the building signs and one with regard to the canopy and free-standing signs. The building, at its present location, at approximately 85 feet back from the road, and located along a high traffic, high speed roadway, does require adequate identification signage, so that perspective customers know and can appreciate from a distance the nature of the operation and the fact that it is a gasoline service station with a convenience store. So, that and the fact that the applicant sells Shell gasoline, but operates the convenience store under the name of Seasons, and also intends to have a co-brand vendor, or concessionaire, located within the building, which is typical these days; some sort of additional food service like a Dunkin Donuts or Subway, the applicant is requesting wall signs to identify the Seasons business; the fact that it is a corner market type business, that there will be a co-brand sign and a welcome sign. These are not unusual signs, given the nature of the business. So the variance would be to allow four signs instead of the one per operation, which would be two signs. Plus it seems like it's not an unreasonable request that would impair the intent of the Comprehensive Plan. The size of the signs does require additional relief. The wall sign area maximum is 15 square feet; however, at the distance that this business is set back from the highway, and the traffic and the speed of the traffic along the roadway that is unsatisfactory and potentially dangerously small set of signs. The combination of the four wall signs that the applicant is proposing total 113.4 square feet, which would require a variance of 98.4 square feet. And I think the unique characteristics of the building location, multiple uses and the necessity to

be visible from the street to motorists traveling at relatively high speed does justify the size of the wall signs that the applicant is requesting. The canopy signs, they are proposing two signs, 4' x 4' with the Shell logo. Normally only 6 square feet is allowed; however, these signs are very modest given the size of the station and its location. They're not garish, I am assuming they will be illuminated, but they're not going to be digitally illuminated, so that it seems like they are reasonable signs in order to provide sufficient visibility and branding of the gasoline being sold at that location. The applicant is also requesting dimensional relief with regard to the free-standing sign. There was testimony offered by the applicant that there is a pre-existing free-standing sign, with signage identifying the Shell station and some other subsidiary signs on that. The applicant is proposing to just reface those signs with more modern signs that will identify the new branding of the business. So they are not proposing any change from the pre-existing non-conforming conditions, which total 96 square feet, which is in excess of the normally allowed 15 square feet and would require a variance of 81 square feet, which I am proposing that we grant. The height of the existing sign is 21 feet high; normally 12 feet is allowed, but this is a pre-existing non-conforming condition, which is exactly the same height as it presently is and has been for many years. The ground clearance of the presently existing sign is only 6 feet; it's supposed to be 8 feet; however, this is also pre-existing non-conforming condition. And the setback from the corner is supposed to be 10 feet, but the present location of the sign is 3 1/2 feet, which the applicant is requesting a variance for. All of those signage requirements tie into the location of this parcel and business along a high traffic, high speed

highway, or roadway. The signage is consistent with the commercial zone along Metacom Avenue; not unlike other signage for the other businesses in the vicinity on all four corners of that intersection, and would not alter the general character area, nor would it impair the intent of the Town's Comprehensive Plan. The various pieces of dimensional relief that I'm proposing we grant, would be the least relief necessary that would be consistent with the significant upgrading improvement of the business at this location. And it would amount to more than a mere inconvenience were we to deny those various pieces of dimensional relief. So, for all of those reasons, I move that we grant all of the requested dimensional variances.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. TIPTON: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTIONS WERE UNANIMOUSLY APPROVED)

(Petition Granted)

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5. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

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

MR. KOGAN: Second.

MR. ASCIOLA: All in favor?

MR. KERN: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. TIPTON: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 8:30 P.M.)

06 MARCH 2017

RESPECTFULLY SUBMITTED,

Susan E. Andrade
Shorthand Reporter
Notary Public

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 06 MARCH 2017

Date Accepted: _____

Chairman: _____