

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

03 SEPTEMBER 2024
7:05 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. JOSEPH ASCIOLA, Chairman
MR. CHARLES BURKE, Vice Chairman
MR. DAVID SIMOES
MR. DONALD S. KERN
MR. TONY BRUM
MR. GEORGE D. DUARTE, JR., Alternate
MS. KIM TEVES, Alternate

ALSO PRESENT:

ATTORNEY PETER SKWIRZ, Town Solicitor's Office
MR. EDWARD TANNER, Zoning Officer

Susan E. Andrade
91 Sherry Ave.
Bristol, RI 02809
401-578-3918

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The meeting of the Town of Bristol Zoning Board of Review was held and called to order at 7:05 p.m. by Chairman Joseph Asciola at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

Chairman Asciola called for approval of the July 15, 2024 minutes

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MR. BURKE: Mr. Chairman I'll make a motion to approve the minutes, as written.

MR. KERN: Second.

MR. ASCIOLA: All in favor:

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: I as not here, so I will not vote

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVE)

(Minutes were approved)

CONTINUED PETITIONS:

2. 2024-24

VASCO CASTRO, III

**101 Woodlawn Ave.: R-10
Pl. 41 Lot 144**

Dimensional Variance to construct a six-foot-high fence, portions of which would be located within the front yard from DeWolf Avenue at a height greater than permitted in a front yard on a corner lot.

Mr. Vasco Castro presented the Petition to the Board. Mr. Castro explained that they would like to install a wooden stockade fence, which is five feet high with a one-foot lattice above it. The purpose of it is because the deer are really devastating their arborvitaes, reducing the privacy in the back yard. This fence is very far from the corner, so he doesn't see any issue with visibility of drivers at the corner. He estimated that it would be at least 60 feet from the corner.

The Board reviewed the Petition and plans in detail with Mr. Castro. Mr. Burke noted that there is an easement is mostly on the western side and looks like the property almost extends to the road, so it would be 15 feet from the road.

No one spoke in favor or against the Petition.

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MR. SIMOES: Mr. Chairman, I'll make a motion that we approve Petition number 2024-24, Vasco Castro, III, 101 Woodlawn Avenue. And the hardship that he suffers and is asking for relief from is that the arborvitaes are being chewed up by the deer. And by putting up this fence, it would keep them and prevent them from doing any further damage. The hardship is not the

result of any prior action of the applicant. And there is a problem right now in the Town of Bristol, especially in the outer areas of the Town where the deer are just doing a job on everyone's arborvitaes, and this will protect them from any further damage. By granting this requested Dimensional Variance, it would not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. The hardship that will be suffered by the owner of the property, if the Dimensional Variance is not granted, will amount to more than a mere inconvenience. For that reason, I make a motion that we give him the 6-foot fence on the DeWolf Avenue side, which is the western side.

MR. BURKE: I'll second.

MR. ASCIOLA: All in favor:

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

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(MOTION WAS UNANIMOUSLY APPROVE)

(Petition Granted)

NEW PETITIONS:

**3. 2024-25
DAVID LOUREIRO**

**27 Franca Dr.: R-8
Pl. 123 Lot 157**

Dimensional Variance to construct an approximate 18' x 24' two-story garage and storage area addition to an existing single-family dwelling with less than the required right-side yard and greater than permitted lot coverage by structures.

Mr. David Loureiro presented the Petition to the Board. He explained that he has lived in that house for 35 years and is looking for a variance to build a garage on the side and an addition of a room on the top of the garage. Bristol has been getting higher and higher in rents and he has his daughter and her two children living with him and that's why he is looking for the addition.

Mr. Simoes pointed out the other three existing buildings in the back. Mr. Loureiro explained that there are two. One he tore down, because he didn't know the law and he had a practice studio and had a band that practiced in it. The next one next to it was already there; it was a chicken coop that he converted into the studio and that was cleared that all up with the Town. The other small shed was already there where he kept his tools. The Board reviewed the existing structures on the property in detail with Mr. Loureiro.

Mr. Loureiro explained that the garage would be built on the side of the house, if facing the house, it would be on the right and it already has a foundation. When he built the retaining wall, he cleared it out to fix the water issue that was there at that time. He went inside his property two feet in. Everything was running smoothly, put a retaining wall in there and then

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put a fence above that; and he had to drop the fence one foot, because the neighbor complained it was too high. So he cut it down and it is all clear.

Mr. Loureiro stated that he is presently publishing a Portuguese magazine, which is the first Portuguese/American magazine in history. So, with that combined with everything else, that's why he needs the room. He would have a home office in the basement.

Mr. Asciola reviewed the history of the property with Mr. Loureiro and noted that not much has changed since he was before the Board. Mr. Loureiro stated that he demolished a shed they used to practice and put the studio in the other building.

Mr. Burke stated that a site plan was submitted that clearly shows three buildings. Mr. Loureiro stated that he did take out one of the buildings.

Mr. Tanner stated that Mr. Loureiro had been before the Board many years ago and the site plan, although it has a 2020 date on it, is very similar to the plan submitted to the Board back in 2006. The middle building, the 212 square foot building, has been removed and that was part of Mr. Loureiro coming before the Board and then there was an appeal, came back to the Board on remand from Court; but that all had to do with lot coverage and the fence issue; and all of that had been cleared up. Mr. Tanner stated that on Mr. Loureiro's site plan, the designer calculated lot coverage and he also calculated lot coverage without using the middle building and came up with roughly the same, 32%, is what he is proposing with the garage. The garage foundation does exist today, so it is impervious; there is no roof on it, but it is solid concrete. They don't count asphalt and concrete towards lot coverage; they count structures towards lot coverage. If the garage is built the lot coverage would increase to 32.8%. Currently he's just over 27%. As far as the site plan still including the building that was removed, he went back to the old file and

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the same designer did the plan, it does have a later date on it, but they erred and did not remove the structure from the original plan, on paper, but the structure has been removed.

The Board discussed in detail what exactly has changed from the previous plans that were not granted in the past.

No one spoke in favor or against the Petition.

Mr. Burke noted that he was troubled by the history of the property without proper permits and approvals and now its 15, 16 years later asking for the same thing that has been gone through multiple times and actually was in Superior Court and here they are again being asked what was previously reviewed and not approved. He has a problem with the five feet. He had a problem with the actual structure. He wouldn't penalize the applicant for the past, he just thinks the structure itself and the location is an issue. And the lot coverage in that zone; he's asking for a lot of relief, 25 to 30% more, which could have been mitigated by not having all the other buildings in there that were built without proper permitting.

Mr. Tanner confirmed that Mr. Loureiro is in good standing with the Town, as far zoning goes. He knows there is a lot but would like to clarify that he does not believe the Board ever denied the garage in the first place. The original application was withdrawn, because the Board brought up that there were all the other sheds and the fence, and all those issues came up. Mr. Loureiro came back a couple of months later, applied for the fence and the sheds. The Board approved the fence, but they didn't like the lot coverage and that was what appealed and what ultimately ended up being the Board ended up approving it with the stipulation that the middle shed be gone. But in all that process, the Board never went back and voted on the garage. Mr. Loureiro never came forward with the garage again until now.

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Mr. Brum stated he saw two issues, too close to the property line and lot coverage. It seems like some Board members have issues with both and some have more issues with lot coverage. As it stands, there's already a pre-existing foundation. With the exception of a roof over the top of it, it's already doing something, occupying space and within close proximity to the neighboring yard. It was also noticed that there are an awful lot of structures in this yard. He thinks that if they could line up how they feel about the addition and how close it is to the neighbor and then figure out the structure issue first. He noted that the neighbor was not present.

Mr. Burke stated they had a similar situation on another property that was completely constructed, and his question was if it wasn't constructed and it came before the Board as a clean application, would it be approved. So, if there was no foundation there would he feel differently about the garage as it's proposed.

Mr. Brum stated that if it was not a foundation there, he would be willing to request from the applicant that they limit how close they get to the property line. Now, if the Board feels that the foundation being there already assists the applicant in adjusting the size, he doesn't know, and that's up to the applicant. Had it not been there he'd be saying they needed to draw it back a little bit.

Mr. Burke stated that all he was saying is that he doesn't think they should make a decision based on a foundation that was put there without approval and without going through the proper procedure. He confirmed with Mr. Loureiro that it would be a one-car garage. And stated that then it can't be made smaller.

After looking at the plans, it was determined that with a 12-foot door, it would be bigger than a one-car garage.

The Board explained in detail what the issues are of building the garage at 5 feet from a property line that requires zoning 15 feet; and it's a 25-foot-high structure only five feet from the property line. Along with all the other structures that count for lot coverage.

Mr. Skwirz explained that with regard to this application, he thinks the only changes to State Law that would affect this application are the changes to the variance standards, where they eliminated the least relief necessary; they eliminated, primarily for financial gain. But they changed the more than a mere inconvenience standard to include language that says, "more than a mere inconvenience means the relief sought is minimal to a reasonable enjoyment of the permitted use". So, he thinks that the reasonably minimal kind of brings in the least relief in another way. The only other new law that might affect this is that the other two accessory structures that are detached, those both could be used for living space now if he wanted; one of the two could be used for living space.

The Board discussed between them how they could cut down the size of the proposed garage, which could bring it approximately 10 feet from the property line. Mr. Loureiro stated he didn't see any problem with leaving it as proposed.

Mr. Burke recommended that they offer the applicant the opportunity to withdraw the application and if he wanted to come back with something that's more reasonable, he could present it. Mr. Loureiro stated that it's been twenty years already and it is what it is, he's not disturbing anyone, he came in two feet on to his property to give comfortable to the next-door neighbor. He asked the neighbor if he could do it and the neighbor said yes. The reason he's looking for it is because he has his daughter and her children. He can't make it any smaller. Mr. Loureiro stated he did not want to withdraw, he wanted to leave it as it is.

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MR. BURKE: Mr. Chairman, I'll make a motion to deny file number 2024-25, David Loureiro, 27 Franca Drive to construct an 18' x 24' two-story garage and storage area, attached to an existing family dwelling with less than the required right-side yard and greater than permitted lot coverage by structures. There is a pre-existing foundation that has existed for many years that was put in by the applicant, so we can't consider that a hardship, because it's due to his prior action. The size of the structure, and it's five feet from the property line versus a side yard of 15 feet and the lot coverage is 33%, which is also due to the prior action of the applicant. I so move.

MR. SIMOES: I second.

MR. ASCIOLA: All in favor:

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVE)

(Petition Denied)

**4. 2024-26
KEVIN MORAN**

**7 Ansonia Ave.: R-10
Pl. 44, Lot 62**

Dimensional Variances to construct a 14' x 30' two-story addition to an existing 25' x 30' accessory structure at a size and height greater than permitted for accessory structures in the R-10 zone; with less than the required lot area for an accessory dwelling unit (ADU) within a new and/or expanded accessory structure; and with an ADU at a size larger than permitted relative to the principal dwelling.

Mr. Kevin Moran presented the Petition to the Board. He explained that he was in front of the Board a few months ago. There are a couple of things now. After the new Bill passed, he thought he was in the clear. The new thing he just found out is in the last line, that the structure being 60% of the original structure on the property, which he did not know. He's by himself now, he no longer is employing the architects. He was under the assumption that the original structure is 2200 square feet, but found out it's only 1,670. So, if he did do the construction, he would be 87 square feet above that 60% line. He was looking for guidance at this point because the hardship for him is living where he is at this point with two small children. He needs to do something. Everything was so expensive, that's why he came the last time, trying to do what he could now that the Bill has passed. The other think is to make it not look terrible on the property. He tried to make it aesthetically pleasing to the whole area. Considering they own the property all around it there are some advantages for him as an owner and that's where the hardship is on what he's trying to do. The existing roof structure is 24'; so, he's already above the 20-foot limit required.

So, he would have to go a little bit above to 25 feet in order to correctly flash it. His intention was to get two variances of the height and then the width. If you look at the plan, not all of the structure is going to be livable dwelling space. The whole garage has an interior stair and doesn't know if that's considered part of the square footage.

Mr. Skwirz explained that the State Law provides that you have an existing accessory structure, you can put in a dwelling unit regardless of the size and regardless of the size of the lot. If you have a lot with 20,000 square feet, then you can put in an accessory structure that is either no greater than 1,200 square feet or 60% of the principal structure, whichever is less. So, in this case, since there is an existing accessory structure, he can put an ADU without relief. The reason that relief is required is that he's asking to expand that, which would kick it from the State Law that allows it in an existing structure. Instead, it put it to the part that requires 20,000 square foot lot and puts restrictions on the size. He'd need relief in both those aspects, because he doesn't have a 20,000 square foot lot and the size is greater than the 60%.

Mr. Moran stated that they did merge two lots to make sure that they were over 10,000 square feet.

Mr. Tanner stated that the 20,000 square feet that the Solicitor refers to is a new piece of Legislation in State Law that has to do with lots of 20,000 square feet or greater, whether it's 21,000 or ten acres, versus lots that are smaller than 20,000. That's a lot different than lot area per dwelling unit, which is what they had talked about, because he's got an existing two-family house and obviously you need more lot area.

Mr. Moran stated he mentioned it because with that lot merging, they're at 22% coverage with the addition and will still be more than 19 feet away from the original house. It's unfeasible cost wise to try to connect this to make it something that would not need a variance. Because they

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own all the surrounding property, they're not encroaching on any other property, they are actually going forward towards the road.

Mr. Burke noted that Mr. Moran mentioned the living situation and presented that as a hardship. His family owns a ton of property around there and within a short distance there's maybe up to 12 dwelling units and asked why they can't vacate one of those to alleviate the hardship. Mr. Moran stated that the reason why they put the Bill in. Can he with a good heart kick out his tenants. The last thing you want to do is kick people out, especially since a majority of their tenants have been there for long periods of time.

Mr. Moran confirmed that he does own a lot on Ferry Road that he bought with the intentions of doing something and he's crossing his fingers that he can. His children are a year and three months old, twins, and at this point is going to be something to give them more room and they will be there for a while.

Mr. Burke stated that they would end up with 1,170 square feet on the first floor of garage space; they could take the existing building and convert that, and they wouldn't need any relief. They could convert that building as it exists and think he would get approval to add to that roof line with the existing footprint; and it could be done by right.

Mr. Moran stated that the problem is the way that it's set up; first of all, there is no storage. So, one of the things they need is the garage for storage. Putting that side where the staircase comes down inside is something that gives them access to get in there. At this point there's only outside access.

The Board reviewed the Petition and the surrounding area in detail with the applicant.

Mr. Tanner clarified that as advertised, the proposal needs three Dimensional Variances. The accessory structure in an R-10 zone, it's larger than 22' x 24, that's one variance; the height

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is 24' feet, which is greater than 20'; and then the percentage of ADU relative to existing structure. And the lot size being less than 20,000; so technically there's four Dimensional variances that are required. If it's not a Use Variance, it's a Dimensional Variance.

No one spoke in favor of the Petition.

Ms. Bethany Oliviera, 15 Rosita Avenue. She lives there and her parents live at 24 Malden, which abuts the back of Rosita where the dead end is. What they are concerned about mostly is what is intended for him and his family to live in or for college students. They were wondering what the through way would be, up Rosita or through Ansonia? They have a lot of college students in the area and there's a lot of traffic on that street is getting out of control.

Mr. Skwirz stated that to address the first concern, under the new State Law, you can't restrict it to family occupied. But also, under the new State Law it can't be used for short-term rentals like Air B&B. Mr. Burke stated that if Mr. Moran moved to his next residence that would become available as a normal rental.

Mr. Moran stated that the entrance would be through Ansonia. He also explained that there is an easement on Rosita that he alone uses from time to time. Mr. Oliviera stated that there is traffic going up that hill and her children play at the top of the hill and there has been traffic coming up and down. Mr. Moran stated that his mother does use it with her pickup truck, and nothing is going to change.

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MR. BRUM: Mr. Chairman, I'll make a motion to approve file number 2024-26, applicant Kevin Moran. The applicant is requesting a Dimensional Variance to construct a 14' x 30' two-story addition to an existing 25' x 30' accessory structure, at a size and height greater than permitted for accessory

structures in the R-10 zone; with less than required lot area for an accessory dwelling unit (ADU) within a new and/or expanded accessory structure; and with an ADU at a size larger than permitted relative to the principal dwelling. Now, the applicant is requesting a Dimensional Variance to construct this addition specifically for his own use. The hardship that the applicant seeks relief from is the unique structure of the land and the unique structure of the original development of the property. Mr. Moran has given testimony that he or his family, or he and his mother own quite a bit of the surrounding area. So, it makes this a unique situation where thou we are permitting an ADU with a size larger than what is relative to the Ordinance and speaking directly not utilizing more than 60% of the existing structure; but it's a unique situation that the property is owned entirely by the family. The pre-existing structure thou larger than what is currently allowed, can be utilized in its current fashion. But unfortunately, that utilization isn't sufficient, given Mr. Moran's current family situation, which leads to his hardship. Mr. Moran has a wife and two young children of less than 2. And even those children as they grow require size. There is testimony that they require size and space to move around. There is testimony that there are two other units there that are pre-existing. Again, this is an interesting situation, because the pre-existing structure was a two-family dwelling and the tenants there would need to be displaced in order to meet the need of the owner. And not willing to displace families, or seeking an alternative to displace same families, Mr. Moran has come before us with this situation.

So, I do lend to say that it part of the general characteristics of the surrounding area. It's not due to any economic disability of the applicant. Because for practical reasons, this will won't be an inexpensive project, but it will be a project that will allow him to stay closer to his mother, who is currently living with with his wife and his children. In addition, we are also providing Dimensional relief. The existing accessory garage structure measures approximately 25' x 30'. The proposed addition will extend the garage structure by 14 feet to the eastern side, most easterly side of the yard. But again, the structure was pre-existing and moving in a different direction isn't possible given the placement of the structure on the lot. In addition, the existing structure is approximately 24' 10" above grade. The proposed structure is 25' high and as the applicant testified, the proposed structure will need to measure approximately 26 feet; so, it will measure higher than the existing structure for obvious drainage purposes. The granting of this requested Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. As we have heard, even the applicant's neighbors, the surrounding area is populated by families with small children, as is the case with Mr. Moran. As testified by Mr. Moran, the structure, or the addition in which he plans on constructing would be aesthetically more up to date or more in line with the existing and developing neighborhood. The hardship that would be suffered by the owner of the subject property if this Dimensional Variance is not granted,

will amount to more than a mere inconvenience and the relief is truly more than a mere inconvenience, but it will require the applicant to either search for a residence elsewhere outside of Bristol or displace a current Bristol resident. And for those reasons, I so make the motion to pass.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor:

MR. BURKE: No. I'm voting no based on the ability of the application to satisfy Standards 1 and 4.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

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(MOTION WAS APPROVED 4-1)

(Petition Granted)

5. **2024-27**
 KRIS WETTERLAND, JR.

3 Leila Jean Dr.: R-15
Pl. 108, Lot 55

Dimensional Variances to construct a six-foot-high fence, portions of which would be located within the front yard from Leila Jean Drive at a height greater than permitted in a front yard on a corner lot.

Mr. Kris Wetterland, Jr., presented the Petition to the Board. He explained that he currently has on the back property line a six-foot-high privacy fence and as shown on his diagram he wants to fence in the back yard of his house. The variance he's requesting would be on the west side of the yard that wouldn't meet the 35' setback requirement, because a side yard on a corner lot is considered a front yard. So, with 28 feet of fence on a 90% north from the corner of the house. To follow the Town's guidance of the 35-foot setback, he has a large deck at the back of his house and two sheds and for those familiar with Leila Jean Drive the yards are super wet and it would be goofy to build a fence if he doesn't build it as proposed. He only wants a fence for privacy, he had like 17 arborvitaes there that got ruined by deer that he paid a good amount to get ripped out and then he realized there was a zoning requirement and it's a front yard. If you drive by his home, his yard is wide open to his neighbor's yard and he's just looking for some privacy. He doesn't think it will cause any visibility issues and he thinks it would make the neighborhood look good when driving in. There are a couple of other fences of similar dimensions in the area.

The Board reviewed the plans in detail with Mr. Wetterland. The Board noted that it will end at the rear of the house and Mr. Burke asked if he could it put it one foot on the other side of

the property line, if granted. Mr. Wetterland explained that the existing fence post in the back is almost seven feet off the street and he planned on just continuing with the new fence. He also noted that the arborvitae that were removed were further towards the street than the new fence would be located. Mr. Tanner explained that when the fence permit is applied for, they will insure that he's not on Town right-of-way.

No one spoke in favor or against the fence.

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MR. BURKE: Mr. Chairman, I'll make a motion to approve file 2024-27, Kris Jr. and Renee Wetterland at 3 Leila Jean Drive to construct a section of six-foot high fence where the Ordinance allows a four-foot fence, for privacy on a corner lot. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land. As mentioned, it is on a corner lot and in order to enclose that rear yard for privacy a four-foot fence would not be adequate; and we often allow additional fence height on corner lots. There is no issue with visibility and the fence will only extend to the rear of the existing residential structure. The hardship is not the result of any prior action of the applicant. We heard testimony that there was arborvitae there and they have been destroyed and removed. The granting of the requested Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. Fences are an allowed structure in a residential area. That the hardship that will be suffered by the owner of the subject property, if the Dimensional Variance is not granted,

would amount to more than a mere inconvenience, because if he were to put the fence in the setback it would be where the house is greatly reducing the backyard recreational area. I so move.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor:

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

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(MOTION WAS UNANIMOUSLY APPROVE)

(Petition Granted)

Mr. Simoes stepped down from the Board, Mr. Duarte sat on the Board.

**6. 2024-28
SUSAN J. DELL**

**5 Lindberg Ave.: R-10
Pl. 148, Lot 68**

Dimensional Variances to construct a six-foot-high fence, portions of which would be located within the front yards from Lindberg Avenue and Paine Avenue at a height greater than permitted in a front yard.

Ms. Susan Dell presented the Petition to the Board. She explained that she retired a year and a half ago and purchased 5 Lindberg as something to keep her busy. So, for the last year and a half they have completely redone the outside of the house and the inside and now its time to look at the outside in terms of the yard. They are requesting a six-foot fence on the right side of the house, on the back side of the house, which will line up with another six-foot fence that's there and a gate in the front. They're very very small lots, hers is like 35' across by 95' and the house is 700 square feet. They are requesting it to keep potential children inside and dogs inside and, yes, deer outside; they are not shy. She is probably two houses away from an open space down the Narrows and the deer wander over frequently. It would be a six-foot-stockade fence.

Mr. Burke asked if there would be points at the top. Ms. Dell stated no it would not have points on the top, she believes it's square on the top. The neighbor on the left has a six-foot right on the property line. It is an odd property, because it goes from Lindberg back to Paine; but all up and down the streets people have six-foot either fences or hedges.

The Board reviewed the plans in detail and Ms. Dell explained that in the front of the house what they want to do is even with the house starting at six feet and then about three feet in go

down, gradually go down to the four-foot requirement at the street. She stated that they did include a gate in the back to allow access to the back yard. Mr. Kern expressed concern that backing out of that backyard area could be a visibility issue. Mr. Tanner explained that the sketch submitted doesn't show a gate on Paine Avenue. He doesn't think the Town would object to a gate, if it were to show up in the fence permit; it's not a driveway curb cut and only used occasionally. He confirmed it would all be reviewed at the time of the application for the fence permit.

No one spoke in favor or against the Petition.

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MR. BRUM: Mr. Chairman, I'll make a motion to approve file number 2024-28, Susan J. and Johnathan E. Dell, 5 Lindberg Avenue, to construct a six-foot high fence, portions of which would be located within the front yards from Lindberg Avenue and Paine Avenue at a height greater than permitted in a front yard. The applicant has provided testimony that she's requesting a Dimensional Variance to construct the fence along two sides of her lot; the easterly side on Lindberg Avenue and the westerly side on Paine Avenue. The applicant proposes to install a six-foot stockade type fence, of which the applicant has testified that it will have a square top. And as depicted in the site plan submitted with the application. The property line will extend from the end of the existing fence on the neighboring property southerly along Paine Avenue for approximately 35 feet. The fence would then run westerly towards Lindberg Avenue for approximately 86 feet. The last section of fence closest to Lindberg Avenue will be transitioned in height from six feet to four feet. The front yard of the property is typically 30 feet

and in this particular case the Dimensional relief that we are offering would be 30 feet of relief on Paine....would it be 30 feet on Paine?

MR. TANNER: So, the variance is for a six-foot fence in the front yard. And with legislation, because this lot is only 3,225 square feet, basically you can go down about a third. So, it's only the front ten feet from both streets that are in the front yard.

MR. BRUM: Okay, so a ten-foot variance....

MR. TANNER: The first ten feet on both sides of all that fence would require a variance, but the middle of the yard wouldn't.

MR. BRUM: So, the first ten feet on both sides, on each side of the fence. The hardship is not the result of prior action on the part of the applicant. In this particular case, the hardship really is in order to maintain privacy within the applicant's yard. And as the applicant has stated previously to corral and keep safe children, possibly their own children, grandchildren, nieces and nephews. And the fence will provide security and also allow for some privacy. The applicant had requested that a portion of the fence along Paine Street have a gate accessible so as to allow to move large items or recreational vehicles in and out the yard. The hardship is more than a mere inconvenience and the relief is minimal in relation to the reasonable level of enjoyment that the applicant will receive by having her yard secure. For those reasons I make a motion to approve file 2024-28.

MR. KERN: I'll second that motion.

MR. ASCIOLA: All in favor?

03 SEPTEMBER 2024

MR. BURKE: Aye.

MR. DUARTE: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

Mr. Duarte stepped down from the Board, Mr. Simoes sat back on the Board.

Mr. Burke asked Mr. Tanner if the next Petition is something that he could have been able to approve the change. They previously approved the addition for the next application. He's just curious, because of the nature of the changes, is it something that would fall into his area.

Mr. Tanner stated that as a modification the only thing he's allowed to approve administratively is there is something called a modification permit, and it has to be less than 25% of the Dimensional Requirements. And the next one is a little different.

Mr. Burke stated that then because it has the pre-existing conditions that they approved and outside of the parameters?

Mr. Tanner stated that he wouldn't be comfortable approving it. The Board made Findings of Fact in the decision.

7. **2024-29**
 ALEX A. & EMILY E. ROMANO

17 Mulberry Rd.: R-20
Pl. 74, Lot 17

Dimensional Variances to modify a previously approved variance decision and construct an approximate 26' x 50' single-story accessory dwelling unit (ADU) addition and a 23' x 32' two-story garage addition to an existing single-family dwelling with less than the required right-side yard and less than the required rear yard.

Mr. Alex Romano presented the Petition to the Board. He explained that this matter was approved a few months ago. In the process of exploring the construction, because of the nature of the hill, doing the approved Variance would have required either bringing machines on to the neighbor's property to excavate, which would have been disruptive of the existing hill, or the demolition of the existing structure in order to access the foundation from the other side. So, the proposed changes, which they've spoken to the neighbors that they are 1.3 feet from the property line; they voiced their support for the original request, and they voice their support for this one as well. So, the plan is to move everything back four feet, which will allow them to underpin the foundation properly for current requirements for construction. And, to accommodate for loss of space, moving the garage forward about five to ten feet. The majority of the other changes are within or beyond the 20-foot setback and he doesn't believe that they need Board approval for those as well; but they wanted to put the full plan before the Board. On page 5 of the Zoning application, they could see an overlay of the existing as approved and the proposed and you can see that they are giving a few feet back on one dimension on the side yard and taking a couple of feet in the front yard.

Mr. Romano confirmed that it would be lesser encroachment. The Board reviewed the plans in detail. Mr. Burke stated that it's less on the side yard, but further forward is more, and he would call it a wash.

Mr. Tanner stated that the variances continue to be the rear yard setback, the back wall of the ADU hasn't changed from the original and then the easterly right side yard variance. This was a change that he felt needed to come back to the Board, because originally there was a single car garage and part of the hardship and presentation was that he wanted to connect that addition to the existing garage. Now the garage is coming down and be a totally different layout, bigger garage; it's a different application. He confirmed lot coverage relief was not needed.

Mr. Romano clarified that its two-car to three-car garage.

Mr. Tanner stated that it also should be noted that there is now a second floor above the garage. There's a guest room and a bathroom that he doesn't believe was in the first application. Roughly the footprint isn't much different, but it's a different application.

Mr. Romano explained they are eliminating the basement space, because of the construction issues with the underpinnings of the foundation, and to accommodate for that what was originally a big loft and storage will now be partially loft and storage and partially a guest bedroom and bathroom.

Mr. Burke stated that it was mentioned that the right-side setback is going to be 2 to 3 feet. Mr. Tanner stated yes, the front corner of the garage was 2 to 3 feet. There is a survey showing the existing garage being 1.3 feet, but it's coming in he's believes the applicant said 4 feet in the back corner, but 2 to 3 feet in the front.

No one spoke in favor or against the Petition.

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MR. BURKE: Mr. Chairman, I'd like to make a motion first that we make a Finding that this is substantially similar to the last application that we approved.

MR. BRUM: I'll make a Finding that this application is substantially similar to the one that we have previously reviewed. And I believe that I should cite the application number, 2024-12.

MR. BURKE: I was actually making the motion, but that's okay, I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

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MR. BURKE: Mr. Chairman, I would like to make a motion to approve file 2024-29, Alex A. and Emily E. Romano, 17 Mulberry Road to modify a previously approved application for an ADU in this latest case to demolish and replace the existing garage. We heard testimony that the garage and the underpinnings of it are not adequate for the construction as planned and that is the reason for the modified application. This relief requires a rear yard setback of 20 feet, versus a requirement of 35; and a right-side relief of up to 18 feet, because at it's closest point the built structure will be 2 feet from the property line, versus a requirement of 20. The hardship from which the

applicant seeks relief is due to the unique characteristics of the subject land or structure. It's required due to the current placement of the house on the 22,000 square foot lot. The hardship is not the result of prior action of the applicant. We've heard testimony on two previous occasions that they have acquired the property and did not build or place the structure in its current location. The granting of the requested Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. ADUs are now encouraged, and garages are allowed as part of the residential zone. The hardship that will be suffered by the owner of the subject property if the Dimensional Variance is not granted would amount to more than a mere inconvenience. He will not be allowed to locate the addition where it least impacts his surrounding neighbors. I so move.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

8. 2024-30

**JOHN M. LANNAN/
Fairpoint Realty, LLC**

**111 King Philip Ave.: R-10
Pl. 147, Lots 61 & 62**

Dimensional Variances to modify a previously approved variance decision and demolish an existing single-family dwelling, construct a new 23' x 43' two-story single-family dwelling with a 19' x 24' porch and a 24'X 24' attached single-story garage with less than the required front yards on a corner lot.

Mr. John Lannan presented the Petition to the Board. He explained that he was supposed to appear in February 2024 for King Phillip; they had put in an application and Mr. Tanner noticed that the didn't address the volume of the second floor. They withdrew that application and came before the Board in March with a full set of plans describing that volume, along with the breezeway and the garage addition. The Board approved that. He then went to Coastal Resources, pulled a demolition permit, submitted a set of plans for approval by the Building Official. They began selective demolition, and it turned into more demolition than they thought. The downstairs has four walls, and they came down as well. Mr. Tanner felt that he hadn't spoken about the first floor, although he had spoken about the second floor and thought that he should come back to the Board to talk about the first floor being removed. He certainly disclosed in all his permit applications, he does more Planning than Zoning and there was no intent; he knows many of the Board, but he's before the Board and he'd like to beg forgiveness if needed and just move forward. He submitted pictures of the bad foundation and sill for the Board.

Mr. Burke stated that just to clarify, during the approval of the last application there was a good amount of discussion about the ability to fully utilize the building that existed. So, it's unfortunate but not a surprise that they had to do what they had to do once they got into the project.

Mr. Lannan explained that he had been told all along that the plan that was first approved had a large bump out over the porch, there was like an apartment on top of the garage. And, if you look at the new plans, it's actually smaller; there's less volume on the second floor, there's no overhang on the porch and they've eliminated the room above the garage. It's a small version of what was approved, within the footprint of what was previously approved. However, he does need the same relief that was previously approved.

The Board reviewed the plans in detail. Mr. Burke confirmed that variances requested would be for 3.5 feet versus 30 feet on Narrows Road and 15 feet versus 30 on King Phillip.

No one spoke in favor or against the Petition.

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MR. BURKE: Mr. Chairman, I'll make a motion to approve 2024-30. I'm going to make a Finding that this is substantially similar to the previous approval that we had given prior to realizing that there was going to be a complete demolition event. The applicant is John M. Lannan/Fairpoint Realty, LLC, the property is at 111 King Philip Avenue. The relief is on the north lot line, the relief is required of 16.5 feet, the property will be 3.5 feet from the property line, versus a requirement of 30 feet. On the King Philip, or the easterly side, which is also a front yard the relief required is 15 feet from the property line, versus a requirement of 30. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and structure and not to the general character of the surrounding area and not due to an economic disability of the applicant. The applicant has salvaged a footprint and the foundation of the previously existing structure. The

hardship is not the result of prior action of the applicant for the same reason, he's reusing the footprint and the foundation. The granting of the Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. It's a residential Use. It's a reuse of a residential lot and in fact it's less relief than was requested in the prior application. The hardship that will be suffered by the owner of the subject property if the Dimensional Variance is not granted would amount to more than a mere inconvenience, because the foundation would have to be abandoned and relocated on the lot. I so move.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

9. CORRESPONDENCE:

Request for extension of variance approval for Denise M. Lavoie, 110 King Phillip Avenue.

Mr. Tanner explained it was a request by Attorney John Rego on behalf of Ms. Lavoie. Ms. Lavoie received a Variance back in December 2021. She requested a one-year extension last year and Mr. Rego is asking for another one-year extension. Even the last one isn't up yet, but Mr. Rego wants to be thorough. She is valid until January 11, 2025. She has had health concerns and is asking for another extension.

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MR. BURKE: Mr. Chairman, I'm going to make a motion to grant one more extension without the applicant either having a representative or appearing. I'll make a motion to extend the approval for one additional year.

MR. BRUM: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Request Granted)

03 SEPTEMBER 2024

10. ADJOURNMENT:

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MR. BURKE: Motion to adjourn?

MR. KERN: So moved.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

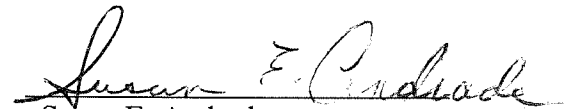
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:00 P.M.)

03 SEPTEMBER 2024

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 03 SEPTEMBER 2024

Date Accepted: 10-7-24

Chairman: 