

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

14 JULY 2025
7:00 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. DONALD KERN
MR. GEORGE D. DUARTE, JR.

ALSO PRESENT:

ATTORNEY ANDREW TEITZ, 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 7:00 p.m. by Chairman Asciola at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

Chairman Asciola called for approval of the June 2, 2025 minutes

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

MR. KERN: Second that.

MR. ASCIOLA: All in favor:

MR. BUKRE: Aye.

MR. DUARTE: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Minutes were approved)

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SITTING AS BOARD OF REVIEW:

CONTINUED PETITIONS:

**2. 2025-10
GEOFFREY M. VICENTE**

**Tilbury Dr: R-10
Pl. 153, Lot 439**

Dimensional Variance (continued from April) to construct a 28' x 40' single-family dwelling with less than the required front yard.

Attorney Teitz asked if all four present Board members were present at the April meeting. It was confirmed that only three of the sitting members were present at the April meeting.

Attorney Teitz explained that the Petition could not be heard this evening, as there was not a quorum.

Mr. Vicente explained that he was only going to ask for continuance, due to that shortly after the meeting in April DEM came back with modifications that need to be made to his plans. Between the biologist and the engineer, they have to redesign some things and now they're back in DEM. He is not sure how much time it will take to receive feedback from DEM.

Mr. Burke made a recommendation that if Mr. Vicente doesn't receive any information, he can let Mr. Tanner know and will inform the Board.

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MR. BURKE: I'll make a motion that we continue file number 2025-10 to our September 2nd meeting.

MR. DUARTE: Second.

MR. ASCIOLA: All in favor:

MR. BUKRE: Aye.

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MR. DUARTE: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

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**3. 2025-17
SCOTT M. DAVIS**

**5 Barbara Dr.: R-15
Pl. 150, Lot 111**

Dimensional Variances (continued from June) to construct additions to an existing single-family dwelling, including a 30' x 48' two-story garage and accessory dwelling unit (ADU) addition with less than the required lot area for an ADU within a new structure, greater than permitted size for a two-bedroom ADU, less than the required rear yard, and less than the required right-side yard.

Mr. Scott Davis presented the Petition to the Board. He explained that he took into consideration everything that the Board asked at the previous meeting. They removed the kitchen and, in its place, put a study for his father, who is a retired professor, and a small wet bar so they can prepare coffee in the morning. That would remove the ADU classification with those removed. They've also moved the property forward to get rid of the rear set back variance; also, have shrunk it, so he's only looking for 4 ½ feet instead of 5 ½ feet for the side yard variance. They've also lowered the roof 3 ½, 4 feet, to make it less intrusive the neighborhood and also removed the small balcony that off of the back of the addition area above the garage, just to give the neighbors some additional privacy.

Mr. Burke explained that this was not exactly what he expected. He thought it would be more of a significant reduction in the size of it. He was looking at both plans side by side and really couldn't see a big difference. It looked about the same to him and didn't know if there was a square footage reduction or not.

Mr. Davis stated it was marginal. Mr. Burke again stated that to him it was the same thing, except they replaced the kitchen. Maybe there was some miscommunication in that if they took out the kitchen and made it smaller then come back and need a minimal variance, then

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it would be more amenable to doing it. Mr. Burke noted that the new plan was basically the same thing as the appliances taken out. It's a very large living area for an ADU.

Mr. Davis stated that one of the reasons for the width and why they didn't shrink it more is for wheelchair accessibility inside the garage and having access to the elevator. He continued and stated that he would be well below the total lot coverage that's required by the R-15 zoning. And the only variance he is asking for is the side yard variance at 4 ½ feet. And those neighbors did communicate to Mr. Tanner in support of the project.

Mr. Burke asked why it couldn't be reconfigured so no variances would be needed.

Mr. David again stated that the whole thing is to make sure there is space for a wheelchair. He also confirmed that due to his father's medical issues they do need two bedrooms, as his parents sleep in separate bedrooms.

Mr. Burke noted that it seems like there is also a dining area with seating for ten.

Mr. David stated, no, that addition is part of the current house, it's what exists. The ten-seat dining room is not part of the ADU, it's part of the main house. So, to fix it, he's making a kitchen off the back of the existing house and creating a dining room, as they currently do not have one. That way his parents can eat with them, there will be plenty of space for family gatherings.

Mr. Tanner explained that the question is whether or not it is an ADU with the changes.

Mr. Teitz stated that the wet bar generally is not allowed, they don't allow sinks with permanent plumbing, because that's really the permanent part of what can become a kitchen or not. If you have a sink in there then it's easy to throw in a refrigerator and a stove in. So, the wet bar would not be allowed as part of it. The other question is, normally they say the way the

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ADU law is set up, you're going to have an ADU afterwards, because then it's existing. The size is limited to only 60% of the principal dwelling and this would be almost twice that.

Mr. Davis stated that with the addition to the kitchen and the mudroom, he believes the main house will be 1,600 plus.

Mr. Tietz stated his advice is that if the Board is comfortable with this as an ADU, then approve it. If they are not comfortable with it, then he wouldn't approve it for the dimensional aspects. Because, the way the law is written, pretty much anything the Board approves, they have to assume it will end up as an ADU on the inside afterward. It's allowable, the law allows it to be done, as now it exists.

Mr. Tanner stated they would need permitting, but it would be by right.

Mr. Tietz noted that it has already been advertised for the increase in size; if the Board is comfortable with it the whole thing, including the ADU, the dimensional variance for the larger size of ADU. If they're not comfortable with that aspect, his advice would be to not approve.

Mr. Asciola explained that if he found a way to eliminate the 4 ½ feet to the addition, he wouldn't need any variance.

Mr. Davis stated he knew that, but they would like the mudroom for space and storage and to make sure that his parents have ample comfortable space in their retirement.

The Board again reviewed the plans in detail with the applicant.

Mr. Duarte stated that Mr. Davis came before the Board originally asking for potentially five different variances. He has now come back and is requesting one variance. So, he thinks realistically that Mr. Davis has done what he was asked to do by reducing the required number of variances he was requesting.

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Mr. Burke stated that for the stated purpose there are requirements and for all intents and purposes it is an ADU. It's significantly larger than what is allowed by law and they don't have the lot size for it. As per the advice of the solicitor at the last meeting, so much relief has been granted by the legislation that people shouldn't need more relief than what is allowed. In this case, his recommendation was that the applicant find a way where he doesn't need to come before the Board and they don't have to figure out how this is going to actually going to be used by the current owner, the applicant, and ultimately it could become an investment property and be used as two units in a single-family residential zone. The Board shouldn't have to be concerned about that, but that's where they are with the current legislation. He would like the applicant to find a way to do whatever he has to do and not require a variance, because the Board would be facilitating and enabling the construction of a second dwelling unit in a single-family neighborhood.

The Board had detailed discussion with the Solicitor on the definition of ADU and whether or not there has been a showing of hardship, more than beneficial use.

Mr. Burke also noted that even if the applicant was asking to enlarge his dwelling without the ADU to the size requested, he believes that it would fail in the area that this couldn't be done without a variance. Because it seems that he could achieve what he needs or wants to without a variance. He can orient it; he can make it longer and not wider; he can meet the Standard in other ways.

No one spoke in favor, or against the Petition.

Mr. Davis in closing explained that the plan does match the house across the street and he really tried everything to make sure it fits into the neighborhood, along with that it is telling that none of the neighbors were present to speak against it. They love where they live, this is for

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his parents and he's just trying to give them a comfortable place to remain independently living for the most part.

Chairman Asciola suggested that the applicant ask for a continuance and either come back, or if no variance is required, he could go ahead. If this request is denied the applicant cannot come back for one year. Mr. Davis explained that if he moves it over 4 ½ feet, he could build to the maximum height and fill even more space and make it look terrible in the neighborhood. But he's not trying to do that, he was trying to come in front of the Board and say this is going to look great in this neighborhood, fit in, serve a purpose, he just wants the Board to understand that a lot of steps were taken to bring something to the Board that he is proud of and would serve the Town of Bristol.

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MR. BURKE: Mr. Chairman, I'll make a motion that we deny file number 2025-17, Scott M. Davis, 5 Barbara Drive to put in a 30' x 48' two-story garage and accessory.... No accessory dwelling unit, to put an addition with less than the required. Like I said, I don't really have the info. So, we're going to deny the request for a variance for a front yard setback. Because the hardship that will be suffered by the owner of the subject property if the Dimensional Variance is not granted, will not amount to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted.. It's a 15,000 square foot lot, with a lot of open space and the Board has determined that the applicant can fulfill his requirements without granting a Dimensional Variance. I so move.

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MR. TEITZ: May I suggest one more Finding?

MR. BURKE: Okay.

MR. TEITZ: That there is no unique characteristics of the subject land or structure, which would support a variance.

MR. BURKE: Standard number 1?

MR. TEITZ: Yes.

MR. BURKE: Okay, I'll incorporate that. That the hardship in which the applicant seeks relief is not due to the unique characteristics of the subject land or structure; but is instead due to the general characteristics of the surrounding area...

MR. TEITZ: Well, there are three things there, I think you just have to deal with the first one. That the finding is not due to the unique characteristics of the subject land or structure.

MR. BURKE: Okay, I will incorporate that. I so move.

MR. KERN: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. KERN: Aye.

MR. ASICOLA: Aye. Against?

MR. DUARTE: Nay.

X X X X X X

(MOTION PASSES 3-1)

(Petition Denied)

NEW PETITIONS:

4. 2025-20

JOHN MARSHALL/JM Bristol, LLC

8 Constitution St.: R-6

Pl. 11, Lot 20

Dimensional Variance to construct a second story living area addition, and 5' x 18' front porch and 3.5' x 14' rear balcony/deck additions, to an existing single-family dwelling with greater than permitted lot coverage by structures.

Attorney Alfred R. Rego, Jr., representing the Petitioner, presented the Petition to the Board. He stated that he wanted to point out that there were Findings of Recommendation by the Town Staff, which have to do with certain dimensions to the porch and rear balcony. And when you review the average of the neighborhood, 1-foot front yard, 4.5-foot side yards and 9-foot rear yards; the variance is really to do with the lot coverage. And with regard to that lot coverage, there is an existing building there, there's a small porch of which 3 feet of that porch apparently encroaches on Constitution Street right-of-way. When he bought the property to refurbish this building, he went before Historic. HDC had approved the various concepts that he presented to them, which the Board had the plans before them. What the HDC recommended is that 3-foot section of porch that is encroaching to be changed and moved, so that it would no longer encroach. Thereby, instead of being 8-foot deep and 5-foot deep in the front of the building, it would then result in a change in the so-called footprint. With the requests, theoretically once that gets moved, with the 53% proposal, they are still within, or less than the existing footprint. He's not quite sure what the variance is percentage wise; but they ultimately would have less than the footprint that is there now, moved by demolition of that porch to a different location. So, the Dimensional variance is just that, they are dealing with percentage of lot coverage.

Mr. John Marshall, applicant, confirmed that he went before HDC twice and what they wanted was to make sure the first floor was somewhat different than the second floor. In doing that, there was also the problem that the house was currently on Town land, which he didn't know when he purchased the house and found out later. HDC asked if he could help out by basically taking the porch from 9 feet to making it 5 feet and having the whole structure on his land. And if he did that, make the porch go the length of the house, like every other house on Constitution. And, even more so, could he take the second floor and move it back 1 foot, so that the roof line really accentuates the first floor. He told them it would be no problem, and that by right they could go the existing length and stay on the Town land but said it would be no problem, and this is where he ended up; he believes they are at 53.3 %, and 53.8% existed.

Under questioning by Mr. Rego, Mr. Marshall stated that he has not made any improvements to the property yet, it's exactly the same as the day they bought it. He confirmed that he was present with the changes, pursuant to recommendations from HDC. In his opinion, he doesn't believe the changes would have any impact on the neighborhood characterization. He stated that every neighborhood and house on the entire street has a porch that goes lengthwise, rather than one that just butts out by itself. From his understanding after discussion with Town Staff and his engineer, other than the coverage of the lot in question, that is the only variance that he requires. Right before the meeting Mr. Tanner told him that the Town land wasn't part of the calculations, which he's been trying to figure out and thanks Mr. Tanner for the information. He confirmed that this would prevent him having reasonable use of the property if he weren't able to configure this property as he had been advised by HDC, if the request was denied.

The Board reviewed the plans in detail with Mr. Rego and the applicant in detail. Mr. Burke clarified that not all homes on Constitution Street have similar porches but agreed that several do.

Mr. Teitz noted that he thought that basic factual presentation is accurate, the characterization that they are doing a favor to the Town is not correct. These were changes that the HDC required in order to approve the addition of the second story; it was part of their overall approval, it was not do us a favor, it was if you want to do this, then you have to do that.

Mr. Tanner explained that the undersized lot and under the most recently enacted law, it's an R-6 Zone, if a lot is only 20 something square feet you have to do a proportional calculation. So, the applicant meets all the required setbacks. His front yard setback is the average of the block, or 20 feet, whichever is less. The engineer calculated the average of the block and then put a 60% factor to it. He only has a 1.2-foot front yard setback. The porch meets the front yard setback. The side yard setbacks he believes are 7' 9"; he meets all the setbacks with everything, the porch, the rear deck and the existing footprint of the home. He's putting a second floor on the home and that does not need any relief, he can build a second floor on the home with HDC approval, he doesn't need before the Board. The only reason he's before the Board is the front porch and the rear balcony deck off the second floor. That increases the footprint of the structure. He's already over lot coverage by structures when you add the garage and the existing structures. So, the confusion on lot coverage, he believes, the Board has before them the e-mail with revised plan that came in that morning with just a slight tweak where the engineer recalculated the lot coverage. So, it's slightly different on the table on the lower-left corner, but it's roughly in the 53.8% range. The confusion there between the way the engineer was calculating lot coverage and the way he was calculating lot coverage is, yes, Mr. Marshall's house has a front porch that

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extends 8 feet out. The new porch is only going to be 5 feet out and the engineer was counting that extra square footage; but it's lot coverage. The portion of the front porch that is not on his lot can't be counted toward lot coverage. So, now he's widening the porch and he's putting a deck in the back; there's no way he can't be increasing lot coverage, whatever the percentage is. And he's already over.

Mr. Burke asked that overhang on the deck on the second story counts. Mr. Tanner stated that it does. He's always counted any structure, decks, porches, sheds, garages; it's the physical footprint of the structure.

Mr. Burke continued and stated that he believed that this was subject to potential administrative approval. Mr. Tanner stated, yes, another new piece of legislation from last year, something called the Zoning Modification Permit, which they always had on their books, but under the new law it's a little bit more streamlined. So, Mr. Marshall did apply for a Zoning Modification Permit, Mr. Tanner is allowed administratively to approve up to 25% variance; but it does get sent to the neighbors. If somebody objects to it, then by law it has to come before the Board for a regular variance, he cannot approve it. So, that's what happened, they advertised Mr. Marshall's modification permit, some neighbors objected, so he was put on the agenda.

Again, the Board reviewed the lot coverage in detail with Mr. Tanner and Mr. Marshall.

Ms. Robin Allister, she is neither owner nor representative persons at 118, 119, 110 and 1121; 5 Thames Street, the lot behind that, 4 Constitution and then also the lot behind 5 Thames Street, the grass lot. She simplified her response that she is representing 5 Thames Street, which is right next to 8 Constitution. She continued and brought up an issue that she didn't believe was touched on, relating to the concrete pad in the back. She wanted to understand how

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it is being classified, is it being considered a deck. Because when she reads Section 2811, it says a deck is “an addition to a structure which is used for outdoor purposes and is not enclosed”. So, if that application is applied, the concrete pad that’s at the rear of the property, which based on the drawings provided, appears to go right to the property line. Her question to the Board is it meeting the setback and is it permissible to put a concrete pad on the property line next to a buildable lot, which would impair them from putting a fence on the property line, in accordance with existing law.

Mr. Tanner stated that they typically do not regulate patios, it is considered a landscape feature, whether it’s pavers or concrete.

Mr. Teitz stated that it’s when it becomes elevated that it becomes a structure.

Mr. Tanner stated that if it requires a building permit is when he counts it. It would be like a driveway.

Ms. Allister asked if there are laws that govern the setback of a driveway, is a driveway permitted to go up to the property line.

Mr. Teitz stated that in Bristol the driveway can go right to the property line. So, whether it’s a driveway or a patio, a patio can go up to the property line as well.

Ms. Allister asked if she was to submit a proposal for a fence on the property line, how that would work.

Ms. Teitz stated that without agreement from the other property owner, she would have to have it on her edge of the property. The poles would be on her property, and the fence would be on the edge of the property line.

Ms. Allister stated that her understanding that if a fence is to be constructed, it’s constructed on the property line, 1/3 the width of the fence can go into that property line. Mr.

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Teitz stated she was not correct. If you construct a fence on your own without cooperating with the neighbor, it has to be on their side of the property. So all of the fences would have to be on her side of the property.

Ms. Allister continued and stated that with respect to the confusion about the percentages, the plans that went before HDC talked about the existing permissible were 46.4 and they're asking to go up to 53; it's clear that there some confusion, or different references being used. For the sake of the neighbors and the community that are trying to evaluate it, she thinks some clarity is needed on what is actually being proposed and what is the variance. She heard 15% of an increase on something that is already significantly above 30% or 38.3 that's permissible on this lot. Her concern is that it doesn't seem clear in view of the Town property, and she thinks that for people to form an opinion and represent this issue, they need to understand what is being asked. She would like to know what the actual variance is.

Mr. Robert Holt, 8 & 12 Constitution Street, spoke against the Petition. He stated that he hoped that the Board received his letter with the concerns he has. He also presented another letter to the Board.

A document entitled May 22, 2025, Bob and Diane Holt, 12 Constitution Street, Bristol, RI 02809, Dear Ed, and 1 through 5, was marked as **EXHIBIT A**.

A document dated July 14, 2025, starting with Good Evening my name is Robert Holt and signed Dearly Robert C. Holt and Diane M. Holt, marked as **EXHIBIT B**.

Mr. Holt read Exhibit A to the Board, which outlined in detail his concerns about the proposed variance. In addition to the concerns outlined, he stated that he is 5 feet lower than Mr. Marshall and his concern that on the second floor there will be snow runoff, his bushes are his privacy and his house next to this house has only a half a porch; same as existing.

Mr. Rego stated that the concept of Dimensional Variance has been changed considerably under the 2023 Legislation that there is not a need to demonstrate a hardship. The variances that are being sought here are minimal at best with regard to a density factor. There is a question regarding whether you can use the same 4% and change it to 53 that they are proposing; but the existing building is there and if they are allowed the Dimension Variance, they will be able to change the porch so that it does not encroach on Town property. It is somewhat consistent with the neighborhood on some of the porches, partially there or not. With regard to the proposal that is before the Board it has a lot to do with HDC considerations. But for that there may not be necessity of coming before the Board for any variance. But he thought that the particular design and the need to install the concepts and it is a minimal request.

The Board again held detailed discussions with Mr. Tanner on what the actual lot coverage would be. Mr. Tanner stated that the plans have all been stamped by registered land surveyors and professional engineers. He has no reason to doubt their numbers at all. They've presented a very detailed plan with calculations and is very comfortable with the 53.3% proposed lot coverage. What he really was not so sure about is their existing lot coverage with the 53.8. Once again, he thinks that was because they are counting the rest of the porch. But what they do know is that the applicant is proposing a 5-foot wide by 18-foot long covered front porch. In the rear of the house, they want a second-floor balcony that will protrude out 3 ½ feet and be 14 feet wide. That is extra square footage and he's not so sure how the engineers came up with the existing lot coverage, but the proposed lot coverage is probably pretty accurate. Regardless of what it is today, that exceeds the maximum permitted lot coverage of 38.7%. So, they're already over what's the maximum required, but they're going a bit beyond that.

After detailed discussion on calculating square footage, it was determined that the new proposal would increase the lot coverage by 2.9%; and if he's asking for 53.3%; he's at about 50% now. And he's bringing his non-conformance with the front yard by about 4 feet; so, he's bringing one thing into more conformance and asking for more lot coverage. It would increase the lot coverage, but increasing the front yard, decreasing the front yard non-conformity and he's taking it off of the Town property.

Mr. Asciola stated that he thought it was a fair trade off to bring it four feet off the Town property and only go up 2.9 % of lot coverage.

Mr. Kern also noted that he can add the second floor without a variance, only to add the porch in the rear.

Mr. Burke stated that he agreed that it is a good trade-off and he's okay with the front porch and he's also not adverse to the rear porch. He also didn't believe the increase in lot coverage was significant.

Ms. Laurel Curtis, 265 Hope Street stated that she keeps hearing in a lot of different meetings the neighbors don't want something; they don't want to set the precedent is what they don't want. The precedent of approving things that shouldn't be in a Historic District, approving things like, yeah, you're increasing this, but just a little, you're increasing this but you're giving that; it's still precedent setting and will be used in next cases.

Mr. Holt again spoke and stated that it's very frustrating that a lot of the neighbors didn't show up at this meeting, but they have trouble understanding a house that was built in 1902, it was his great grandfather's first doctor's office, it was a bungalow, it has a half dirt cellar; the charm of the house is unbelievable. Now somebody has bought it and HDC has given so many people over windows and now they allow a square structure to go above it. When is enough

enough with this house. If they allow that porch to go all the way, it will be four feet from his property line next to his house; he's going to be right on top of the neighbors that have lived there for 25 years. How do you take a historical house and make it two-family. He confirmed that he himself has two floors on his house.

Mr. Asciola reminded Mr. Holt that HDC approved the addition to this home.

The public hearing was closed.

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MR. BURKE: First, I would like to make a Finding that after all of our calculations, we believe that the current lot coverage approximates 50% and the current proposal is to increase the lot coverage to 53%. So that's our Finding. Mr. Chairman, I'd like to make a motion to approve file 2025-20, John Marshall/JM Bristol, LLC, 8 Constitution Street to construct a second story living area addition, which is not what we're ruling on, but to construct a 5' x 18' front porch and a 3.5' x 14' rear balcony deck. The hardship from which the applicant seeks relief is due to the unique characteristics of the land and the structure. It's a very small lot and it already has 50% lot coverage. So, these, what I would consider necessary additions to the front and the minor addition of a raised deck in the back, are a result of that small lot size. The hardship is not the result of prior action of the applicant. We heard testimony and we have evidentiary reasons so that we know that he recently purchased the lot. 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

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Plan of the Town of Bristol. It will remain a single-family residence, and it was reviewed extensively and approved by the Bristol Historic District. The hardship that will be suffered by the owner of the subject property, if the Dimensional Variance is not granted, will amount to more than a mere inconvenience. They would not be able to reconfigure the front porch to eliminate encroachment on Town property. I so move.

MR. KERN: I second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. DUARTE: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

**5. 2025-21
BRIAN HUTCHISON**

**127 Peck Ave.: R-10
Pl. 61, Lot 8**

Dimensional Variances to construct a 24' x 38' single-story mudroom and accessory dwelling unit (ADU) addition to the rear of an existing single-family dwelling with less than the required rear yard, less than the required left side yard, and greater than permitted lot coverage by structures.

Mr. Brian Hutchison and Ms. Liz Remington presented the Petition to the Board. Mr. Hutchison explained that they would like to construct a 24' x 38' single-story mudroom, accessory dwelling unit addition to the rear of their single-family dwelling unit with less than required rear yard, less than required left side and greater than permitted lot coverage by structures. He explained that they want to build the ADU for their disabled 39-year-old daughter. She's a spastic quadriplegic and needs 24-hour care, a caretaker in there as well. Right now, they can't even get wheelchairs around their existing home.

Mr. Tanner explained by State Law an ADU is allowed by right for a disabled family member, regardless of the size of the lot. However, the ADU addition still needs to meet all the other dimensional requirements; not more than 60% of the square footage, the setbacks and lot coverage. The applicants are here before the Board for a variance for the addition, but he believes the ADU Use itself is permitted by right, because its for a disabled family member.

Mr. Burke asked if it needed to be owner occupied under those circumstances. Mr. Tanner stated he believes it does. Mr. Burke asked if the ADU result as an ADU if the property changes ownership, can it then be a separate dwelling unit.

Mr. Teitz stated that yes, it can. He continued and stated that he understood it was not an answer that Mr. Burke wanted to hear; however, the Law does provide that if for whatever reason the property does change hands, or if their daughter were no longer living there, this would become an accessory dwelling unit without that requirement. Mr. Burke stated that he believed the parameters of this particular application is different than any of the others that have been before the Board since the new Legislation. He only brought it up so that the Board is aware of what the ramifications are; he has no predetermined position on the matter.

Addressing the applicants, Mr. Burke stated he thought they were doing a great thing; the only problem he had was the 4-foot rear yard, which they typically would not allow an attached structure to be within four feet.

Mr. Hutchison explained they did try to alleviate the 4-foot rear setback, but that part of the yard, adjacent to that is the neighbor's garage and then the corner where it would be, the houses on Colonial Drive on the other street and they're 40-feet away, at least, from that. They had the architect try to make as many changes as possible, but it has to be able to have the therapy equipment and be able to move a wheelchair around and have a larger bathroom. He confirmed they need two bedrooms because they need a 24-hour caregiver.

Ms. Remington explained that they actually did bring it in a couple of feet from the original plans. But the problem is the ADA bathroom; by right you can't shave it. The mudroom is the common room and it's also where the lift is going to be for her to get out of the house. Ms. Remington explained the kitchen is only half kitchen, like a pantry, it has a cooking area for the caretaker. Their daughter has a trust in place wherein there will always be someone living with her in the event that her parents are gone. Again, she explained that they did try to cut back,

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possibly moving the shape of it, but then it encroaches on a whole different area. They have also spoken to all of the neighbors, none of whom have said they are against the plans.

Mr. Duarte stated that typically when someone asks for multiple variances, the Board's response generally is to bring it back a little bit and come back to the Board. But he thinks if they were to make an exception to that, this is definitely a case that they can look at.

Ms. Susan O'Donnell, 126 Ferry Road, stated she was in favor of the Petition.

Mr. Burke read a letter in objection into the record, from Packard Sorentino, 119 Peck Avenue. The letter was generated on July 3rd and stamped on July 14, 2025.

The public hearing was closed.

Mr. Burke noted that these are completely different circumstances than what the Board has dealt with before. It requires two bedrooms; it's not two bedrooms in case the grandkids come over. They need a kitchen, they need a room for a caregiver, it needs wheelchair access, in and out of the house, and in the bathrooms. The only issue he had was the rear setback and he is kind of convinced that it's going to make them go through hoops for two feet.

The Board did all agree that his is a unique situation.

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MR. DUARTE: I'll make a motion to grant the variances for file number 2025-21, Brian Hutchison and Elizabeth Remington. Based on the evidence presented to the Zoning Board of Review and the Board's knowledge and personal inspection of the area, the Zoning Board hereby finds that the hardship from which the applicants seeks relief is due to the unique characteristics of the

subject land or structure and not to the general character of the surrounding area, and not due to an economic disability of the applicant, because as we heard through testimony, the lot size in which the structure is currently located, the addition to accommodate the resident of that ADU fall in line with the quest. The hardship is not the result of prior action of the applicant, because, again, the structure is currently located on the lot and remains the same square footage as the original purchase. That the granting of the requested dimensional variance 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 of Bristol. Again, the ADU follows the State Regulations, and the variances are being approved based upon the hardship being presented by members of the family. And the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted will amount to more than a mere inconvenience; meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted, because, again, we are granting the variances due to the wheelchair accessibility needed for the resident and her care giver. Therefore, I move that these dimensional variances be granted, and no special conditions shall be applied.

MR. KERN: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

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MR. DUARTE: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

6. **2025-22**
 DAVID BUTERA

133.5 Ferry Rd.: R-40
Pl. 165, Lot 4

Dimensional Variances to construct an approximate 44' x 68' two-story single-family dwelling with less than the required left and right-side yards; and to construct a 26' x 28' two-story accessory garage structure with a 6' x 12' second story deck at an overall size height greater than permitted for accessory structures in the R-40 zoning district.

Attorney Bruce Cox and Mr. David Butera presented the Petition to the Board. Mr. Cox stated that Mr. Butera is looking for a four-foot variance on the North side of the house for a distance of 18 feet; and a 2-foot variance on the South side of the house for a distance of length of 14' on the front end of the house. The reason he is doing this, it's a matter of right, and he's seen this Board enact most recently with Michael Fonseca when he wanted to get some relief for his son's house and it had to be a shotgun. The Board said he could just build a shotgun. Mr. Butera doesn't want to build a shotgun on this property. This area does not deserve a shotgun house.

They presented a 3-D model of the planned home to the Board.

Detailed discussion was held between Mr. Burke and Mr. Cox on the referenced lot in his opening statements. Mr. Fonseca's lot was 25,000 square feet, vacant in a 20,000 square-foot zone. He came before the Board for a variance, which he didn't need; so he didn't get one. Mr. Burke believes Mr. Fonseca then went on to build a beautiful home down there.

Mr. David Butera, 275 Nayatt Road, Barrington, applicant, was sworn in and presented the model to the Board. He explained the plans and the model in detail. He stated that what he wanted to show is that the structure is mainly off the red line, which is the building envelope, just off two feet. On the other side, it's about ten feet back, with a small bump out that is four feet outside the red line. In architecture you create interest by having the jogs, as opposed

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to a blank straight line. He was trying to add interest, and the design effect also lets you see the water. He explained that with the design the neighbors on either side would maintain their water view as well. The main reason was to give the house an appearance and he really tried to have the house fit in with Bristol. He didn't want to build a box, a flat roof, contemporary; he wanted to build something that looks like it's been there a hundred years but still has a modern house. There is also a garage, which Bristol allows us to have six feet from the property line. The only thing was that he wanted a little more head room, so he was asking for 2 ½ feet. He understands that with the cupola you don't need a variance for. The other thing is a little deck that would have a slight view to the water, 6' x 12'; and he didn't want it to touch the ground so it wouldn't impact. He really did place a lot of thought into the house and try to make it look and appear attractive and not bump out. It is a very difficult lot to do something attractive; it's narrow and long.

Upon being questioned by Mr. Asciola about the use of the garage, Mr. Butera stated it would be car storage and upstairs there would be a little place that his 30-year-old daughter could stay in. He, his wife and son would be living in the main house.

Mr. Cox explained the lot is a narrow lot, a difficult lot. If a shotgun house was put in here by somebody other than Dave, who is very responsible to his neighbors in protecting their view. He could literally advance a box house down further on the lot, which would block the neighbor's views in both directions. Furthermore, given the elevations that are there and given that once he gets down into the E-zone, he could pop to the 14-flood zone and it could add up to five feet of freeboard before he starts even measuring and the house would certainly be much higher. He is trying to be respectful of the neighborhood. Mr. Cox believes that it is a doable plan, respectful of the neighborhood, respectful of the site and respectful to the abutting neighbors. Some

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of the neighbors he saw were present and was hopeful they would speak in favor, as the plan would protect their line of site.

Mr. Burke stated he believed that Mr. Cox represented Mr. Butera when he subdivided the lot. Mr. Cox stated he was correct and confirmed that he did recall that and recognize that Mr. Butera subdivided the lot. Mr. Cox stated that Mr. Butera did subdivide the lot and the original application was to have a waterfront flag lot and a lot up by the street. The Planning Board determined that it had to be two parallel lots, which means in regard to the issue of hardship, the Planning Board insisted on two parallel lots versus a flag lot and a front lot. Mr. Cox continued and explained they took out what he believed were four dwellings; there was an existing duplex and a barn. Under today's requirements, the right to rehabilitate, you could have had a virtual city down there.

Mr. Butera stated that it wasn't that the Planning Board insisted, it was that they felt that it should be split the long way and he wanted to do what the Town wanted. He continued and said it would have been better splitting the other, because then there would be two one acre plus lots, with more space. Both are acre plus, but they would have been such a size that would allow someone to build a conventional house on. But because they wanted them the other way, it made both lots narrow. The lot is only about 180 feet wide; if it were split instead of east to west, north to south, you would have had two conforming lots that you wouldn't have to build a narrow house; you would have a lot that you could build a conventional house in the front and conventional house in the back.

Mr. Burke stated that when they came before the Board to get two lots with less than the required frontage and width, the proposal was to do what's done. Mr. Butera stated he had

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conversations with the Town before coming to the Zoning Board; and that is what he could see that they wanted, and he didn't want to fight it.

Mr. Burke as if he would acknowledge that avoiding variances on the resulted lot was something that he committed to when he was asked when the Board made the decision. Mr. Butera stated that he did.

Mr. Burke stated that now Mr. Butera was coming back to the Board, after they made a decision to allow a subdivision; and he believes it worked out for everybody, nobody did any favors; but now he's coming back to the Board after the Board made a decision based on him telling the Board that he wouldn't come back and seek variances for the resulting lot.

Mr. Butera stated that he thought he could build something. But when they started to draw it turned into a long narrow shotgun house. In order to get any views, he has to move the house down the lot, because the views would be out the side. That would mean that he would block both his neighbor's views; but it would give him fantastic views. If he didn't care about the neighbors, he would just build a house lower on the property. But he wanted to make sure that he's protecting their views. He explained in detail his reasoning using the 3-D model.

Mr. Burke again noted that when Mr. Butera said he would not come back to the Board, he based his motion and decision based on Mr. Butera telling the Board he would not come back and ask to move the sides of the house closer to his abutters. He is having trouble believing that he can't fit a house that looks to be 4,200 plus square foot house on this lot.

Mr. Butera stated that he did make a math mistake and it's about 3,800; but it is one to try to make something attractive. He could build a square box 40 feet wide and that's it and not care about Bristol, the community or the neighbors. But he wanted to build something that is attractive, not only from the front, but from the side; and it's very difficult if limited to 40 feet.

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Mr. Teitz asked what the scale on the model was. From the back of the house its 300 feet to the water, confirming that there is 100 feet before they hit the CRMC buffer, which he could go into, but they would get to say blow-out walls; and such. He would have to submit his plans to them.

Mr. Tanner asked if Mr. Butera could supply the Town with the plan he was looking at, which looked a lot more detailed than the one submitted to the Board.

Mr. Kern noted that he would be 112 feet from the road and asked if it was to the house or the garage. Mr. Butera stated he thought it was in the garage. Mr. Kern noted that the Board was just told that if the variance wasn't granted the house would be moved towards the water, when there is 112 feet forward and he could move the house in any direction.

The Board reviewed the plans in detail. Mr. Kern noted that with the 112 feet to the road there would be no need to move the house towards the water and obscure the neighbors. Mr. Butera explained that if he wanted a water view, he would have to move it further down the lot. The present plan is to allow a water view out the side windows and that is why the house bumps out in certain areas. But if he just makes it a long straight shot, it has to move forward in order to get those views. The lot is all about the water. If it weren't for the waterfront there facing west he could move it anywhere. When you're building on a waterfront property you want to take advantage of looking at the Bay.

Ms. Susan O'Donnell, 126 Ferry Road, spoke against the Petition. She bought her home in 2018, which they constructed the whole home. During that time is when Mr. Butera got the variance to split the lots, they never received a letter, but it might have gone to the previous owner. They met Dave and they're friendly, but they didn't even know what was happening over there and did realize that the variance had already been made. When they bought

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their property, there used to be one small home, single-story now has that home that Dave refurbished for that person to have a second floor and a garage. And now Dave wants to build this other house that would completely block their view, and she doesn't know being across the street if they even have a say in that. But it completely diminishes their view and if it changes their property value with all of the additional houses being built there. She has a problem with any extra variances butting out for his water views, because that's really going to change the landscape of what Ferry Road is. If this is allowed there will be no access to the water and there will be no access to the water and change the value of her home.

Mr. Donald Eddy, 126 Ferry Road spoke in favor of the Petition and agreed with the fact that Mr. Butera came to the Town and made a deal and now is reneging on his deal.

Mr. Alan Spen, 133 Ferry Road, spoke against the Petition. He lives adjacent to this lot, and they have been up here for five years. They bought the property from Dave, who built the house, and they feel he built a really nice house. He has shared this with us, and he believes his wife and he are comfortable with this. They were asked to maybe to give a couple of feet to help with the design, to make it interesting. He wants to make a nice house but protect the neighbors. Dave has assured them that he will work to do that and not push the house too far down and block anyone else's view. It's a one-acre lot that he's working with and the feeling is hopefully he chooses to live there. So, net, net, he thinks he and his wife is okay with it and thinks it will be a nice house and hopefully there won't be any surprises.

Mr. Robert Payson, 131 Ferry Road, spoke against the Petition. Just a bit of information that the lot that Mr. Spen has and now Mr. Butera has used to be one lot. He always understood that there weren't to be more variances. He would like to see it downsized a little bit. To him one of the reasons you have laws, regulations and policies is to stay within it. And Mr.

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Butera did sort of agree to keep it down, not to have any more variances. It's a beautiful location, he is in a larger house in the historic district; it's a family home. The property that used to be to the North of him was part of the family property, six acres, and was subdivided. It probably would have been better if it had stayed as one lot. But laws and regulations are what they are. He recognizes that Mr. Butera makes wonderful homes, Mr. Spen's home is one of them and he did a wonderful job of fitting it on the older footprint of the former convent property built in 1960; his house is 1860 left of that. He just thinks it should be kept within the framework of what has been established.

Mr. Asciola asked if there was documentation of the previous agreement with Mr. Butera. Mr. Burke noted that the minutes of that decision and minutes were included in this hearing's packet. Mr. Burke stated that at that previous hearing he wanted to put in a condition that he could not come back but was advised by Counsel that he could not because everybody has the right to come in and express hardship. So, if it wasn't the person that did it, they could come in and maybe make a case. There was a two-family and one-family on one lot, there were three dwelling units and part of the reason it was granted was that it was going to be two separate lots and two dwelling units, instead of three dwelling units on the same land mass. The Board had lengthy discussions about the resulting lot and it was a discussion about okay, but no more variances. And that's what was agreed to and that's what he based his vote on and his decision. If he were to look at the application, there is three issues. One is the applicant created the lot. If there's an issue on the lot, he created it. So, if there's a hardship, he believed the applicant caused it, by subdividing the lot. The other thing is, is you have to believe that you can't build a decent house with 40 square feet with the applicant's experience; that he can't come up with a design that stays within the 40-foot-wide building envelope that resulted from that. So, he believes that he's not really over

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enthused about having somebody come to the Board, the Board granting a significant variance and then having the same applicant come back and saying, well, I found out I couldn't do what I said, which resulted in the Board granting him the original variance.

Mr. Teitz noted that the Board did have in their packets the minutes and decision of that previous meeting and that on page 21 of the minutes excerpts there is a thing just before the motion that says "In response to Mr. Burke's suggestion that if the Board does approve the plan, that it be conditioned on any structure built has to be done so within the existing envelope. Attorney Skwirz explained that the Statute that allows for Dimensional Variance, you can't preclude anybody from using that Statute". That's a State Law that if someone has a right to come and ask. But you can certainly keep in the back of your mind that it was just granted not long ago and that it was put on the record. But if they can't meet the Standard of the Statute it doesn't have to be granted". And then follows the motion.

Mr. Teitz noted also that there have been changes in Standards for variance. They've already discussed the hardship. The least relief necessary language is not still in the State Law, but it's been kind of moved to just now in the actual definition of what more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. And then also the Standard, that the hardship is not the result of any prior action of the applicant is Law as well.

Mr. Kern stated there also was a letter from a Thomas Adam Krump, dated July 6, 2025, 137 Ferry Road. Mr. Burke noted that the letter indicates that they don't even know it's a separate lot; they think the variance is to add a second dwelling unit on to the lot. People don't seem to realize that it's a separate lot and it is buildable.

Mr. Teitz noted for the record that the resident at 137 Ferry Road was opposing a proposal for a second home on a single lot is not what he signed up for.

In closing, Mr. Cox stated that Mr. Butera is a competent, capable builder and he doesn't believe anyone questions that. He also doesn't question Mr. Butera meant it when he said he thought he could do this without getting other variances. These variances are not large; it's four feet for part of the length of the building on one side and two feet on the other side. When you're looking at the Standard for the minimum enjoyment of the property and some of the elements that special conditions are evident after credible evidence minimize the adverse impact upon other lands; is what he's driving to here. He's trying to keep the house up away from the water, not blocking the adjacent land, which is an admirable goal. Obviously, he's a builder, he's a designer, he wants as much water view as possible. Anyone who does have property on the water wants that. Anyone who thinks to the contrary isn't really thinking about water views. He went down there and walked the property to see where the stakes are and where the site is and they are right in line, basically, in back of the other adjacent properties, as opposed to forward. Another builder would stay inside the setbacks and not give a hoot about the adjacent neighbors. He thinks that Mr. Butera has done a fine job here and the fact that he made a mis judgement in the sense that he probably wouldn't be able have to come back for any variances; he's done a fine job of trying to build a nice sized house, not a 5,000 square foot house, a 3,800 square foot, which conforms with the adjacent properties. The people across the street, as everyone is aware, its unfortunate but views are not protected by Zoning Ordinances. He thinks Mr. Butera has presented a very good design with minimal requests of relief. One is way up at the far end of the house and the other is down just for one little jut out, 18 linear feet for four feet out. Most of the house is within the setback; it's a good design and will be a handsome house when it's constructed.

Mr. Asciola stated he knows what has been said, but the house is beautiful and to start moving stuff around, he could move down closer to the water and make the neighbors way worse than they feel they are now. He thinks he could build a box house, and he thinks the requests are small. Four foot for 18 feet is not that big. But he does understand what he said before and he created this hardship; that's the problem he has.

Mr. Burke again noted that he has difficulty believing that a builder as talented as Mr. Butera, with the history of the lot, cannot make it work without any variances. If he thought, there was a really good reason why he could not build within the envelope he would consider that. And if Mr. Butera wants to go ahead and block his neighbors' view because he doesn't get a variance, well he's sorry but it's kind of a threat and he tries not to react to those. It's been tried before.

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MR. BURKE: Mr. Chairman, I'll make a motion to deny file number 2025-22, David Butera, 133.5 Ferry Road to construct a 45' x 68' two-story single-family dwelling with a required left and side yard variances. The hardship from which the applicant seeks relief is not due to the unique characteristics; it's due to the general characteristics of the surrounding area. The hardship is the result of the prior action of the applicant, as we discussed and heard testimony. The applicant did come before the Board to subdivide the lot. And during that deliberation and subsequent approval of the subdivision without the required lot width and lot frontage, the applicant committed to not seeking a variance for the subsequent vacant lot and buildable lot. The hardship that will be suffered by the owner of the subject if the dimensional variance is not granted will not amount to more than a mere inconvenience.

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He still has a 40-foot-wide building envelope to construct a substantial residence on this waterfront lot. I so move

MR. KERN: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. DUARTE: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Denied)

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7. CORRESPONDENCE:

2023-23 – NATHAN & SARAH DELL – 12 PAINE AVE – PL 148, LOT 65

Request for extension of variance approval.

Mr. Tanner explained that this will expire at the end of August. They're looking for some more time and have submitted a letter to the Board explaining why they need more time. Mr. Tanner read the letter into the record outlining that after the demolition of the previous structure and a most necessary step. However, not long after, life brought an unexpected turn and they are expecting a new baby and resulted in a difficult pregnancy and the full-time care of two babies under the age of two. They are temporarily able to move on the construction.

Mr. Teitz noted it will be one year from the date it would otherwise expire.

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MR. BURKE: Mr. Chairman, I'll make a motion that we extend the approval for file number 2023-23, 12 Paine Avenue for one calendar year.

MR. DUARTE: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. DUARTE: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Request Granted)

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8. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. DUARTE: Motion to adjourn.

MR. ASCIOLA: All in favor:

MR. BURKE: Aye.

MR. DUARTE: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

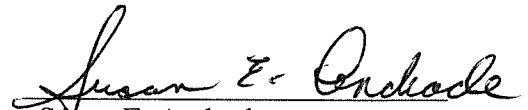
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:30 P.M.)

14 JULY 2025

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 14 JULY 2025

Date Accepted: 7/2/2025

Chairman: C. A. Bucher