

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

05 FEBRUARY 2024
7:21 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

ALSO PRESENT:

ATTORNEY ANDREW TEITZ, Town Solicitor's Office
MS. DIANE WILLIAMSON, Town Planner

Susan E. Andrade
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Bristol, RI 02809
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I N D E X

Page

1. Approval of minutes:

02 January 2024.....3

Continued Petitions:

2. 2023-27 – Petition of Robert M. Kreft.....4

3. 2024-01 – Petition of Thomas A. & Lee H. Dawson.....6

New Petitions:

4. 2024-04 – Petition of Larry Goldstein/TSL, LLC.....7

5. 2024-05 – Petition of Marissa Cabral/Wicked Awesome Pet Care.....8

6. 2024-06 – Petition of John M. Lannan/Fairpoint Realty, LLC.....18

7. 2024-07 – Petition of Jeanine & Daniel McConaghy.....19

8. Adjournment.....33

05 FEBRUARY 2024

The meeting of the Town of Bristol Zoning Board of Review was held and called to order at 7:07 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 January 2, 2024 minutes.

X X X X X X

MR. BURKE: Mr. Chairman, I'll make a motion to approve the minutes of January 2nd, 2024, as written.

MR. KERN: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Minutes were accepted)

CONTINUED PETITIONS

2. **2023-27**
 ROBERT M. KREFT

22 Wall St.: R-6
Pl. 33 Lot 17

Dimensional Variances to construct a 40' x 42' accessory garage structure at a size and height greater than permitted for accessory structures, and with greater than permitted lot coverage by structures in in the R-6 zoning district.

Chairman Asciola explained that Mr. Kreft sent a letter requesting a withdrawal of his application without prejudice.

Discussion was held on withdrawing with prejudice versus without prejudice. In response to Mr. Teitz asking whether this Petition had been started at previous meetings, Mr. Burke explained there have been three or four meetings and that Mr. Kreft missed the January meeting without explanation and that before January there had been much testimony. Mr. Teitz stated that it would then be up to the Board whether they want him to withdraw with or without prejudice.

Mr. Kern stated the Board had allowed Mr. Kreft to withdraw without prejudice in December, it was scheduled for January and Mr. Kreft missed it. Mr. Burke stated that Mr Kreft asked for a continuance in December, not a withdrawal as Mr. Kreft wanted to wait for the new Zoning Regulations to go into effect on the first of the year.

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MR. BURKE: Mr. Chairman, I'll make a motion to withdraw with prejudice.

MR. SIMOES: I'll second it.

05 FEBRUARY 2024

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Withdrawn with Prejudice)

05 FEBRUARY 2024

3. **2024-01**
THOMAS A. and LEE H. DAWSON

15 Burton St.: R-6
Pl. 15 Lot 79

Dimensional Variance to construct an 18' 8" x 24' two-story living area addition to the rear of an existing single-family dwelling with less than the required left side yard.

Chairman Asciola explained that the Board did not have a quorum to proceed at this meeting.

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MR. KERN: Mr. Chairman, I'll make a motion to continue application 2024-01, Thomas A. and Lee H. Dawson, 15 Burton Street, to the March 4th Zoning Board meeting.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

05 FEBRUARY 2024

NEW PETITIONS:

4. 2024-04

LARRY GOLDSTEIN/TSL, LLC

**267 Thames St.: W
Pl. 9 Lot 50**

Dimensional Variance to modify exterior walls and roofline of a portion of the existing Bristol Harbor Inn hotel building and construct eight (8) new hotel rooming units on the third floor of the structure with less than the require lot area per rooming unit.

No one was present to present the Petition; the matter was held until the end of the meeting to see if they show.

At the end of the meeting, no one appeared to be heard.

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MR. BURKE: I'll make a motion to continue file number 2024-04 to the March 4th Zoning Board meeting. I'd also like to request Ms. Williamson to get correspondence as to why they did not attend the meeting, before the next meeting, please.

MR. SIMOES: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

05 FEBRUARY 2024

5. **2024-05**
MARISSA CABRAL/
Wicked Awesome Pet Care

1282 Hope St.: R-10
Pl. 92 Lot 16

Special Use Permit to convert an existing nonconforming retail business space within a residential zoning district into a pet grooming service business use.

Ms. Marissa Cabral, 431 Chestnut Street and owner of Wicked Awesome Pet Care presented the Petition to the Board. Ms. Cabral explained that she would like to open a pet grooming salon in the current location where there was a Vape store.

Ms. Williamson confirmed that the board did receive a recommendation from the TRC, which was favorable, as they felt that this service business use, being that it is a small staff with appointment only service business, no outdoor use; they felt that with that type of business that it was more in keeping with the uses within a residential zoning district than previously.

Mr. Burke read the recommendation from the TRC in order for the public to hear what was recommended to the Board; and it is part of the official record.

Mr. Burke also read aloud a corresponding letter from an abutting property owner who had no objections, only that the following be added as conditions of approval; no overnight boarding of animals, as stated in the application; no outdoor kennel runs for day or night storage/staging of animals.

Ms. Cabral confirmed that she is a one-on-one groomer, and she only has one assistant with her. There won't be more than one dog and then another dog will arrive when the other dog is basically done. She doesn't believe in having several dogs waiting around. Sometimes she has walk-ins for nail trim; but a lot of times they will call ahead of time, and she will tell them what time to come in. Other than that, she doesn't have people in and out all the time, it's very low key. She confirmed that there is plenty of parking and her customers will

05 FEBRUARY 2024

park over to the left on the side of the building and she believes there is enough for six cars in that area; the strip of property that abuts the home to the north. She also believes that there is more parking in the back where her and her staff will park in the back. In response to Mr. Burke asking if it could be possible that someone drops off a dog and not return and the dog would be there for the whole day, Ms. Cabral stated that she has never had that happen. When she has a new client and it's a long groom, she usually books it out so that there isn't another dog coming in. If so, her assistant would usually do a bath and dealing with the other dogs. She confirmed that it's not in her best interest to have multiple dogs there because it's just too much chaos and she likes calm. Her hours of operation would be Monday through Saturday; Saturdays will be every other Saturday, 8:00 am to 7:00 p.m. She again confirmed there will be no boarding of dogs, strictly grooming, they come in, get groomed and are usually out within an hour. She presently has a grooming salon in Barrington and the Board could ask anyone, when you walk into her salon its quiet and clean, she takes pride in her salon presentation and the care of the individual dogs that she grooms. Her clients always pick up anything outside, but she also goes around checking. At her present location she has a landscaper, at this location she won't, and she will be a waste can that she will empty on a daily basis. When asked if there was any other place in Bristol where this business could be located, Ms. Cabral stated that it's really hard to find a place, especially when it comes to plumbing, as well as with dogs. She doesn't need a large area, her present location is two bays, and she hasn't really found anything else in the area; because she's not looking to do day care of boarding, just grooming.

Mr. Paul Feeney, 8 Forest Avenue, East Providence, RI; he explained that he is the current owner of the property at 1282 Hope Street. When Ms. Cabral approached him about the space and what she planned to do with he and his partner had no issue with it. He will have

05 FEBRUARY 2024

in the lease that she will have to clean the waste every day. As far as parking is concerned, she will have at least a half dozen parking spots along the north side of the building and in the back parking lot there is enough room for 16 cars and there is only two back there; so, employees will park there, so it will be easy for her clients to get in and out. Obviously, he doesn't want it to affect his gas pumps and business, so he will make it as easy as possible for her as well. Other than that, there is no outdoor use, she knows that she knows there is no overnight, there's no kennels inside, there's no dog run outside. Obviously, if the client comes in and walks the dog around the parking lot and the dog messes, that's nothing that Ms. Cabral can control or he can control, but it will be cleaned up that day.

Ms. Kimberly Hayes, 7 Brooksfarm Drive, Bristol spoke against the Petition. She read a lengthy letter to the Board that was also submitted to the Board previously and is part of the record. Mr. Fenney's property abuts her back yard and he's been like family to her; and the whole length of his property is her entire back yard. There are a few of the neighbors that feel that this will impact them significantly and she feels that she is one of them. Being a dog owner herself, currently having dogs now, she is very familiar with how day care works and runs from her experience of dropping off dogs. She has set appointments and when she shows up there are still four or five people there dropping off dogs at the same time; dogs sometimes are not getting picked up until five at night. Mr. Fenney does own and operates 1282 Realty LLC, which is the property in question. It currently is a Citgo gas station, and it is PSR repair service station, which has four bays. This property where the spa is going to be is adjacent to the far right. Her concern is that any potential changes will negatively impact her quality of life on her property where she has resided for 31 years. Her home has been in her family for over 50 years, and she speaks for herself and on behalf of her mother and father who own the property. She does object

05 FEBRUARY 2024

to the Special Use Permit. She is against any exterior expansion of the building; not that it was mentioned, but she wants to make her stance very clear on any expansion of that building. She is against any additional use of the building other than where the store was previously located. She is completely against the garage, which has two back bays, and she is totally against that being used to store dogs in crates and/or on leads. Sometimes if two dogs come at the same time, the groomer has to put a dog in a crate and she is afraid that that back space, especially during the warm months, the garage door could be open, a gate could be added. She also has a concern that once the warmer weather hits that the business will move to the back bay, which she is utterly opposed to. She is opposed to the business every becoming a doggie day care and/or operating on weekends. She enjoys her time in her yard and her quality of life and wants to avoid any noise nuisance such as barking dogs. She also has strong concerns regarding smells and odors from the business and from the waste created by the business. She wants to know where the waste is going to be disposed of. As of right now there is a dumpster in the back lot and on hot summer days that foul smell will be a great concern. Will there be a limit on how many dogs will be allowed at one time. She personally thinks that 7:00 p.m. is too late. As of right now the gas station is open seven days a week, but the service station is only open Monday through Friday and he closes at 4:00 or 5:00; he's not open on Saturdays, so there's never been a noise issue on Saturday and Sundays. She asked if Ms. Cabral sells her business, could a new owner operate under her guidelines, or do they have to come back to the Board and ask for a whole new Special Use Permit. If a business operating in a residential zone, because its grandfathered, creates a nuisance, the nuisance is never grandfathered and must be halted. She strongly feels that granting a Special Use Permit is going to create multiple safety issues on the property related to both pedestrian and vehicular traffic. It also could easily become a nuisance within a few

05 FEBRUARY 2024

months of the operation. She respectfully requests that this Board reviews the application at this time and if they decide to move forward, she begs that they will do so with caution and strongly consider limited and restricted to the Special Use Permit for grooming only with absolutely no outdoor use, including the huge back bay garage, also no doggie day care every being allowed.

Mr. Feeney, owner of the building explained that the applicant is renting the store front, about 800 square feet up in the front of the building. There is a wall that separates the two bays from this area. The only use that the applicant will have in the back bay is use of the restroom; other than that there is no way there will be dogs in there, because he's has more equipment back there and there is no room for a kennel. There will be no outside kennels and there will be no doggie day care, no overnight, there will never be more than maybe three dogs at the max. He has already discussed all this with the applicant, and he has also gone to see her current business and knows how she runs her five-star rated business.

Mr. Charles Mueller, 1287 Hope Street stated that he lives directly across the street. He feels that a lot of his concerns have been addressed, as long as there are conditions. One thing that does matter, as it is a residential area, and they would prefer that the hours reflect that, and the business closes earlier. He owns a business in town in the Industrial area and they all respect the rules on how they can operate their business. His biggest concern is the hours of operation, that there is nothing outside and the number of dogs on the premises. He would like to not have business hours on the weekend, as again, it is a residential area.

Ms. Gina Ferrara, 5 Herzig Street stated that her biggest concern is noise from barking dogs. There are already barking dogs in the neighborhood that are a nuisance and she would like to make sure that there is no additional noise. She does work from home on conference calls and meetings and in the summertime, she has the windows open, and she would

05 FEBRUARY 2024

just like to be able to conduct meetings without any additional noise. The TRC did make a recommendation to put certain protocols in place and if any of those are broken, she would like to know what her recourse from the surrounding neighbors.

Mr. Richard Costa, 11 Brooksfarm Drive stated that he agrees with everything that has already been stated by Ms. Hayes.

Mr. Burke stated that it would have been nice if everyone in the area had spoken with each other before the Zoning Board meeting and see if they could have spoken to the business owner and work out some of the issues. He thinks that a lot of the things that were brought up did get addressed by the potential owner. The Board can certainly put in conditions to address those concerns and should the Special Use Permit be granted they will put in those conditions. There is a barking ordinance for owners that they could employ if there is a barking issue at the business. In addition to putting in the conditions, they cannot say there won't be any barking, only that they can limit the opportunity or potential for it. In response to questioning by Ms. Hayes about policing violations, Mr. Burke stated that the typical way is to file a complaint with the Town.

A detailed discussion was held on putting the business on a probationary basis, keeping in mind that the applicant will be spending a lot of time and money to start up and maintain her business.

It was also explained that the Special Use Permit go with the property, along with any conditions set.

Ms. Cabral again explained in detail how she runs her business and keeps it as stress free as possible, which is the reason why she does one-on-one service, basically an in and out type of business. She explained that if there were ever a problem, she would hope that

05 FEBRUARY 2024

people would reach out to her first. She also explained that she does not make appointments up to 7:00, her last appointment is usually at 1:00, sometimes at holidays at 3:00. But there are times that she might be there as late as 7:00 cleaning and maintaining the business. Every other weekend is scheduled for her clients that work during the week.

Mr. Burke asked if there is a Special Use Permit with conditions and the conditions are violated, what recourse does the Town have. Mr. Teitz explained that the Town cannot rescind the permit. The Town would inspect and if there is a violation of the conditions, they would issue a Notice of Violation. Usually there is the first time there are five days to correct. Beyond that it's subject to a penalty of up to \$500 a day.

Through discussion, it was determined that a limit of four dogs seems appropriate for this business. All conditions were discussed in detail among the Board members. Mr. Burke stated that this business does seem viable in this area, as compared to some of the other businesses that have been at this location and agreed suggested that the hours be limited from 8:00 a.m. to 7:00 p.m., Monday through Saturday; no outdoor activities, no waiting area, no dog runs, etc.; no boarding during the day or overnight; and a maximum of four dogs on the premises at any one time; the grooming should be by appointment only; and also, limited to the area shown on the plans. Also, this will be good for one year from the date of recording of the decision.

It was also explained to the applicant that it would be her responsibility to request the extension of the Special Use Permit prior to the one-year expiration. Ms. Cabral asked if she would have to pay the cost of re-submitting a new application in one year. Mr. Teitz stated that she would have to and Ms. Cabral stated that she didn't see that as being fair to her, especially if

05 FEBRUARY 2024

there are no complaints. Mr. Tietz stated that perhaps the Town could waive the application fee, but not the advertising and notice fees.

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MR. BURKE: Mr. Chairman, I'll make a motion to approve application 2024-05 for a Special Use Permit to conduct a pet grooming business. Applicant Is Marissa Cabral, d/b/a Wicked Awesome Pet Care and Spa, Inc. at 1282 Hope Street. The business will be located at a former retail store area, adjacent to an existing car repair and garage business. This Use is a non-conforming Use that is replacing a former non-conforming Use. We heard testimony and within our Ordinance it is allowed to replace a non-conforming Use with another non-conforming Use, if it is more consistent with the neighborhood. And, we have determined, via testimony and research by Mr. Mr. Tanner, that in fact it meets that requirement. There are no specific Standards in Section 28-150 for....

MR. TEITZ: There is a specific Standard, I think, which you come up with, which would be that the proposed Use will be more in conformance than the existing Use. That is the specific Standard.

MR. BURKE: Okay, I amend that. There is no specific Standard in 28-150, is that correct?

MR. TEITZ: Correct, there is no additional specific Standard, but that is the specific Standard required by the law; that finding that it is more in conformance.

05 FEBRUARY 2024

MR. BURKE: Yes, and that is our finding.

MR. TEITZ: And you would also incorporate the recommendation of the TRC into your findings.

MR. BURKE: Yes, and we incorporate the recommendation of the TRC to grant this Special Use Permit for this applicant. Special Use is specifically authorized by this Chapter. By definition, by the discussion that we previously had there are no Standards in 28-150, and the granting of the Special Use Permit will not alter the general characteristics of the surrounding area area, or impair the intent or purpose of this Chapter or the Comprehensive Plan of the Town. Subject to the conditions that the applicant has agreed to. Here are the following conditions from the granting of the Special Use Permit. That the operating hours will be 8:00 a.m. to 7:00 p.m., Monday through Saturday. There will be no outdoor activity, no holding area, no walking area for the animals being groomed. There will be no boarding, day or overnight. There will be a maximum of four dogs at the facility at any one time. The business will operate by appointment only. The activity will be limited to the designated area as depicted on the submitted plans. There will be a one-year validity from the time the Special Use Permit is recorded and issued. And the Board has waived the application fee for the one-year review. I so move.

MR. KERN: I second. That.

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

05 FEBRUARY 2024

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

05 FEBRUARY 2024

6. 2024-06
JOHN M. LANNAN/
Fairpoint Realty, LLC

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

Dimensional Variance to construct a 10' x 22' breezeway and porch and a 24' x 24' two-story garage addition to an existing single-family dwelling with less than the required front yard on a corner lot.

Mr. Burke explained that a request for continuance was received by the Board.

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MR. BURKE: Mr. Chairman, I'll make a motion to coincident with the applicant's request that we continue this matter, File Number 2024-06, John Lannan/Fairpoint, LLC, 111 King Philip Avenue, to the March 4th meeting.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

05 FEBRUARY 2024

7. **2024-07**
JEANINE & DANIEL McCONAGHY

135 Kickemuite Ave.: R-15
PI 133 Lot 37

Dimensional variances to demolish an existing single-family dwelling and construct a new single-family dwelling with less than the required front yard on a corner lot, and with a second-floor footprint that exceeds the maximum two thirds size of the first-floor footprint; and a Special Use Permit to construct a single-family dwelling at a height of over 25 feet above grade in the flood zone.

Attorney S. Paul Ryan presented the Petition to the Board. This evening the applicants, Jeanine and Daniel McConaghy, as well as the architects from Sheridan and Associates will be testifying. Because this application involves a brand-new Statute and a recent Zoning Ordinance amendment in Bristol, he was only going to say anything in terms of the legal end of it at the end.

Mr. Dan McConaghy explained that he and his wife were both born and raised in Warren, went off to college, ultimately to return to Barrington to raise their family and it is their deep desire to take advantage of all the benefits that Bristol has to offer and build their house for their latter years in this great Town. It is their desire to build their forever house and retire in Bristol, along with their children when they come to visit. He confirmed that he and his wife purposely designed a smaller house than would be allowed. They did their best as a team, looked at its lot size, its dimension and narrowness, trying to respect the neighborhood and of course the Codes and FEMA regulations and other things. They bought the property at the end of September and quickly engaged John Sheridan to start design. They worked through designing through December, preparing to submit in early January. Some things changed in that quick time. After they completed their design, but at the same time, it was always their intent to

05 FEBRUARY 2024

design something that fits the context of the neighborhood and the property, respects the rules and regulations, thereby except for the variances needed due to the nature of the lot. But he feels that they have designed a beautiful home and that they are very happy and pleased with the design and respect for roof lines and dimensional heights and appearance of the structure. Some of the quirkiness of the site, in terms of the driveway where it comes in, they are moving that in order to get it out of the right-of-way.

Mr. John Sheridan of Sheridan and Associates at 34 Brownell Street, Warren, RI presented plans in detail to the Board. He explained that the property is an 18,625 square foot lot, located on the corner of Wilcox Street and Kickemuit Avenue in zoning district R-15. There is currently a 1930 one-bedroom cottage with two small sheds on the lot. The property is accessed right now from both Wilcox and Kickemuit. At this location is a dead-end right-of-way for access to Kickemuit River, with Harrison Street intersecting Kickemuit Avenue at its midpoint. The existing house in disrepair, it is too close to the coastal feature, it is well below the base flood elevation. There is no option for renovation or additions to the existing house. The owners intend to demolish it and build a new full-time family residence. The new house strives to comply with CRMC, FEMA, as well as the Town of Bristol Zoning Ordinance, while providing the owners with a modest size residence for them and their three children. They have three relief requests; the first two are bundled together. A Special Use Permit under Section 28-150 (e)(e)(e), for building height and a dimensional variance related to one of the new components of that Special Use Standard. And a third is a dimensional variance under Section 2111, for the front yard setback.

The Special Use is requested due to the proposed structure being over 25 feet in the flood zone. The proposed house will be 42'4" above the existing mean grade, at 68.85 feet

05 FEBRUARY 2024

and 41 feet above the proposed final grade of 8 feet. There will be a 3'9" of freeboard above the 13' base flood elevation; making the adjusted building height 32' 4"; less than the required 35 feet. The design has minimized the height by limiting interior ceiling heights and visually by creating large overhangs that extend down just above the second-floor windows. Within this same Special Use Standard, they are requesting a dimensional variance under Section 28-150 (e)(e)(e) 4 (i) from the newly adopted rules that state that the floor area ratio of .3 shall be used to calculate the maximum gross floor area of the parcel. With the first floor no greater than 60% of the gross floor area. And the second floor no greater than 40% of the gross floor area. And that the second floor shall not exceed 2/3 of the area of the first floor. The second-floor footprint, as proposed, is the same gross floor area as the first floor. But both floors are only 23% of the gross floor area, where the first floor is allowed to be 60%. So, they are quite small related to the requirement. In the application are more statistics. They are allowed under this calculation .3 of the 18,000 square feet, and they could build a 5,180 square foot house; they are proposing a 3,200 square foot house. He is familiar with this type of Ordinance, and he understands its intent, specifically on the water. They do about 80% of their projects on the water, so they are dealing with all the CRMC, FEMA and other various issues and he understands this is attempting to prevent tall towers with flat roof. He thinks they are far from that, and they are well within the intent of this Ordinance. They believe the proposed design meets all of the Standards within Section 28-150 (e)(e)(e), as follows:

Standard 1 is that the construction will conform to all building codes in the flood zone. The lower level will be properly flood vented and engineered per requirements for residents in the AE zone, with limited wave action. Moreover, the design provides an additional 3'9" of freeboard, per recommendations from CRMC and FEMA.

Standard 2, no roof pitches are less than 4/12, except under deck. The small attic dormers have a 4/12 roof pitch. The main roof has a pitch of 10/12 around the entire house with large overhangs. The only roof pitch less than 4/12 is a small deck over the entry.

Standard 3, Wilcox side front yard is well back of the average street side setbacks. It references that you don't want to be forward of the average of the houses along the street and they are well back of that.

Standard 4(i)(i) is for one-story homes, which is not applicable.

Standard 4 (i) (i) (i), decks are no greater than 50% of gross floor area. They have a waterside deck that is 308 square feet, which is only 5.5% of the gross floor area.

Standard 5, Articulation along the public right-of-way consists of an entry stair bay that is 7'9" by 15' 4" wide, in the middle of the elevation along Kickemuit Avenue.

He continued and stated that the request for relief from this Special Use Permit complies with Section 28-409 of the Zoning Ordinance that the hardship from which the hardship seeks relief is due to the unique characteristics of the subject land or structure and not the general characteristics of the surrounding area. And not due to any economic disability of the applicant. Because the existing grade is 6.85 feet, and so far, below base flood elevation, the house needs to be raised significantly to comply to the FEMA flood zone requirements and the recommended added freeboard per CRMC. Having the first-floor footprint being larger than the requested would result in a significantly longer house, given the shape and constraints of the lot; that would not be in concert with the neighborhood, or desired by the owners. That such

05 FEBRUARY 2024

hardship is not the result of any prior action of the applicant. The existing property presents this hardship, and the existing dwelling needs to be replaced, as it is in disrepair and well below the base flood elevation. That the granting of the requested variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of this Chapter or the Comprehensive Plan of the town. The style and size of the house is consistent with the surrounding area. And the intent of the Chapter appears to be to prevent elevated houses with little articulation and flat roofs. In contrast, this design has deep eaves and a street side articulation that maintains the spirit of the provision. In granting a dimensional variance that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience. Meaning that relief sought is minimal to a reasonable enjoyment of a permitted use to which the property is proposed to be converted. The fact that a use may be more profitable or that a structure may be more valuable after relief is granted shall not be grounds for relief. The owners have three children, are attempting to maintain a small house with adequate bedrooms. Having a main second floor where three bedrooms are a normal residential expectation and one that is a minimal need for the owners. As such, the second floor has been designed to provide basic usable space in as small a space as practical at a reasonable 1,267 square feet. To comply with Section 28-150 (e)(e)(e) 4 (i), owners would need to enlarge the first floor significantly to a minimum of 1,900 square feet, adding about 633 square feet more than the design that they want. Potentially making the house 22 feet longer. The owners would like to avoid having such a large first floor footprint and house that is so much larger than surrounding houses. And is much larger than they need or want. Also, while long narrow houses are sometimes desirable, because the house needs to be so elevated for flood purposes, the resulting footprint of the unused ground floor would be massive.

05 FEBRUARY 2024

The last dimensional variance they are asking for is under 28-111, and is requested to have a 7.3' front yard on the Kickemuit Avenue side, where 35' is required; 17.3' is to the stair bay, which breaks up the massing of the house. The setback to the main structure is 25.05'. The proposed house location at the dead end of Kickemuit Avenue is generally beyond where the street becomes a granite marked public right-of-way, after the Harrison Street intersection. They want to hold a 20' side yard requirement to what was required, because the adjacent property is less than 8 feet away. So, they chose to have the full side yard on that side. The request complies with 28-409 of the Zoning Ordinance, that the hardship from which the applicant seeks relief is due to unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to an economic disability of the applicant. As a corner lot subject to both building restriction setbacks and CRMC buffer and construction setbacks, the buildable area is uniquely constrained; with a 75'-wide lot and a 20-foot side yard and 35-foot front yard, the buildable house area width would be 20 feet, making it difficult to fit a modest house without relief. That such hardship is not the result of any prior action of the applicant. The existing shape and location of the property presents this hardship. That the granting of the requested variance will not alter the general characteristics of the surrounding area, or impair the intent or purpose of this Chapter, or the Comprehensive Plan of the Town. The style and size of the house is consistent with the surrounding area moreover, because Kickemuit Avenue at this point after Harrison Street is a dead-end lower access right-of-way. The reduction of the front yard has even less impact. Additionally, while the existing cottage to be demolished has a current side yard of plus or minus 7 feet where 20 feet is required, the proposal for the new dwelling is an improvement in holding the 20-foot side yard separation to the home at 3 Wilcox. In granting a dimensional variance that the hardship that would be suffered by the owner of the

05 FEBRUARY 2024

subject property, if the dimensional variance is not granted, shall amount to more than mere inconvenience; meaning that relief sought is minimal to a reasonable enjoyment of a permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after relief is granted shall not be grounds for denial. The owners would be unable to fit the modest preferred house on the property, given the dimensional constraints. Moreover, the Kickemuit Avenue main entry articulation would be constrained undermining the intent to have a design that fits into the character of the neighborhood and the efforts to comply with the articulation requirements of the Special Use regulation. This will effectively prohibit the owners from building their forever residence.

They completed a design that they are all very excited about, a home with a lot of visual interest at a size that fits nicely into the neighborhood. Care has been given in taking with design to give it an architectural interest that will be an asset to the neighborhood with various articulations and a steep roofline, while keeping a reasonable footprint. The houses height above the flood protection measures are being kept to a visual minimum with steep slopes and interesting articulation on the street side.

Mr. Burke inquired about the bump out showing on the side yard plans. Mr. Sheridan explained that the 7'9" x 15' 4" bump out is the stair; you enter from the garage to kind of a stair tower. The owners are reserving a space on the main floor for a future elevator. That bump out stops at the second floor and then there is an interior stair that goes from the second floor to the third floor.

The Board reviewed the plans in detail with the applicants and Mr. Sheridan.

Mr. Ryan stated that in between the TRC and this hearing, he went to Narraganset, and he discovered that this, which is the same Ordinance now in Narraganset, is a case that he lost for Save the Bay and the neighborhoods in Narraganset. So, in Nulman Park there is a structure of a house next to Nulman Park, which he calls Fort Nulman; it is a monstrous piece of concrete that is only seven years old; it's like a block house. And at CRMC, because of the battle between the Town and CRMC, that block house got moved closer to the coastline. So, one can see from a legislative or legal standpoint, when regulators see that that can be possible, and there was no way to prevent it, they have now come up with this 2/3 and so forth, which he's not so sure accomplishes the mission, but he knows its aimed at places like Nulman Fort. So, this is kind of the opposite of the Nulman project.

Ms. Joanne Camara, 15 Wilcox Lane spoke against the Petition. She stated that she was before the Board as a concerned neighbor of the proposed building. There are a few concerns that they have. The front yard setback of 17 feet; instead of 35 feet, she feels is too close. She has a problem with that big, huge house that is close to the road. It's a three-story house when you really actually look at it on an 80-foot-wide lot. She doesn't see the need to approve a variance to that extreme; it barely puts it off the road. Secondly, they are concerned with the height variance. Concern about granting a second-floor variance, which is supposed to be 2/3 the size of the first floor, should be 26'; but the proposal is 34. So, then they have what is dubbed as the attic. She doesn't know what is considered to be an attic; she wishes her attic had an 11' x 11' bedroom and a bathroom and an 11' x 6' great room in it. And also, a mechanical room, but there are no dimensions on the mechanical room. The size of that is not too shabby for an attic. She would like that to be a consideration; that's a total third floor of living that hasn't been spoken about; that doesn't have dimensions proper. The second floor is

05 FEBRUARY 2024

supposed to be 2/3; then what is the third floor supposed to be. Basically, when you look at all the bedroom, this is a very large four-bedroomed plus home. And is that due to hardship? She added that the Board gets to approve or deny requested variance, however it is the neighbors who have to live with the decision. Her husband and her have already been negatively affected by previous decisions by this Board in two instances. One that was approved on the hill above them on Masterson Street, in which their basement gets flooded, yards get flooded, they lose trees constantly, her grandchildren's toys got washed away by all the runoff by everyone above them; that everyone got granted variances. Not to mention the attached house, that was supposed to be demolished, and never was now it's a home for college kids. And that's what they have to live with. The other instance is directly across from her home on Wilcox Street. Another two-story building on 2,900 square foot lot, again, the owner asked for variances due to hardship. Never, ever moved in. Now that's full of college kids to and that it was supposed to be their "forever" home. If the Board approves these variances for four to six bedrooms, when you add the room in the attic, they could be extra bedrooms; this property could very easily be turned into a college boarding house and that's when it turns into the neighbor's problem and the Board that grants the variances. Life changes, people change, circumstances change, anything could come of this house in one year or five years; but that's a large house for a lot of other people. While she respects the fact that McConaughy's want to build their forever home, her husband and her are just trying to just live peacefully in their forever home. We've lived according to all the rules, all the regulations at 15 Wilcox Street and now they're living with all the changes and everybody else's changes. She wished the Board would seriously consider the variances and impact on the neighbors and what's truly hardship. If they just bought the property and knew the size of the property, what's really considered a hardship?

Mr. Steve Eton, 10 Wilcox Lane, stated that a lot has changed down there in the past few years. They've seen a lot of the older houses being torn down, people coming in and putting up what's required. He's in between because he owns a property on the water and at some point, he might want to tear his down and go up. He thinks a precedence has been set down there, where the lot to the north of him received a variance and they're building a two-story bowling alley; it's going to be sitting next to his little cottage. He understands that this is the United States of America, by you have to look at the big picture. He thinks the applicant is looking at the bigger picture, they're going with a smaller footprint. The houses that are down there have been allowed to have the second floor to be the same size as the first floor, the footprint; kind of makes sense not to be doing a steppingstone stuff. And if you're following the rules, how can you say yes to some people and no to some people. There's been a lot of homes down on Smith Street who have done the same thing and conformed to the new Standards, same at Swift Point. This existing structure the applicants purchased is falling down, plywood floors, sheets hanging from the ceiling for ceiling panels, but there is concern that it is going to disrupt the neighborhood. He thinks what they have planned is appropriate for the lot, they did some homework, where they said that yes, they could build a lot bigger on the footprint and go up. But they are saying that they want to keep it smaller. He is concerned about the fact of the full third floor, which is what is getting it up above 25 feet; is it necessary to go with a 10 pitch on that top floor to have all that extra space; should it be a two-story building with limited attic space.

During discussion by the Board, Mr. Burke noted that the plans show about 2,000 square feet of actual living space on an 18,000 square foot lot in an area where its conforming, but the lot is only 75 feet wide, not 100, 100 would be conforming. So, if you were

to put a building on it, it's reasonable to expect that you would need some relief on one side, or both sides. If they centered it and they put a house there that would be allowed, then they would probably still need some relief. The dimensions of a lot of lead to some type of side yard variance. It's not narrow enough so that they get further relief like they would on a 40-foot lot. In the area where they require 17-foot dimensions is a very small part of it; the main building is approximately 25 feet from a right-of-way. Mr. Asciola also noted that even though the proposed house is larger than the original houses down there right, but theoretically they could have made this house a lot bigger and higher under the regulations. Mr. Burke noted that to meet the flood zone regulations, the bottom floor can not usable living space, and then typically two more levels, which means this applicant could have gone another 10 feet higher. He explained that this structure going west to east could have been much longer, narrower and much higher, which is not reasonable for the people that are proposing this building, nor would it be the best thing for the neighborhood either. That's why there is a Special Use Permit for height, to ensure that the impact is minimized for the neighbors, and he thinks that's what the proposed design accomplishes.

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MR. BURKE: Mr. Chairman, I'll make a motion first to grant the dimensional variance for the front yard. This is for file number 2024-07, Jeanine and Daniel McConaghy, 135 Kickemuit Avenue to construct a single-family home in R-15 zone, which will require the demolition of an existing non-conforming structure and replace it with a conforming structure to the flood zone requirements. I'm going to make a motion to grant a dimensional variance for the front yard that borders Kickemuit Avenue for

a dimension of 17.3 feet, versus a front yard requirement on a corner lot of 35 feet. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land. Although it's a conforming lot, and actually exceeds the 15,000 square foot requirement, it is a narrow lot and it is along what is currently a street for right-of-way. Therefore, they require a variance to the 35-foot requirements. The hardship is not the result of prior action of the applicant. They acquired the lot; they did not plat it out. The granting of the requested 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. It's residential use in a residential R-15 zone and it's allowed per our Ordinance. The hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted would be more than a mere inconvenience; they actually could be required, if it isn't granted, to build a larger structure that is unnecessary and would not benefit the neighborhood. I so move.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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05 FEBRUARY 2024

MR. BURKE: Mr. Chairman, I'm going to make a second motion to grant a Special Use Permit for the building height. The proposed building exceeds the 25-foot height that requires a Special Use Permit per the Zoning Ordinance. This Special Use Permit also requires a dimensional variance, which applies to 28-150 (e)(e)(e) 4 (i) that requires a specific ratio between the first and second floor. The architectural design of this specific proposed building does not allow for that but does allow for a smaller footprint and building structure than would be allowed by right. We also have the recommendation from the TRC that has reviewed this in detail and has recommended approval of the proposed structure. The Special Use is specifically authorized by the Zoning Ordinance. The Special Use is for building height for structures constructed to Code in the flood zone. This Special Use Permit meets all the Standards set forth in subsection of the Zoning Ordinance 2150, with the exception of the previously stated Standard for which we are proposing that they are granted a variance. The granting of the Special Use Permit will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan. It's a residential use in a residential R-15 zone. It is subject to recently implemented flood zone requirements that dictate the architectural design of the proposed building.

I so move.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

05 FEBRUARY 2024

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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(THE MOTIONS WERE ANANIMOUSLY APPROVED)

(Petition Granted)

05 FEBRUARY 2024

8. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. KERN: So moved.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

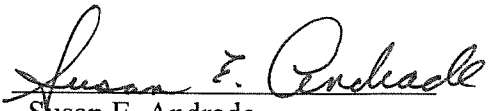
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 8:59 P.M.)

05 FEBRUARY 2024

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 05 FEBRUARY 2024

Date Accepted: 3-4-24

Chairman: 