

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

.05 JUNE 2023
7:02 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. JOSEPH ASCIOLA, Chairman
MR. CHARLIE BURKE, Vice-Chairman
MR. DAVID SIMOES
MR. DONALD S. KERN
MR. DEREK TIPTON, Alternate

ALSO PRESENT:

ATTORNEY ANDREW TIETZ, Town Solicitor's Office
MR EDWARD TANNER, Zoning Enforcement Officer

Susan E. Andrade
91 Sherry Ave.
Bristol, RI 02809
401-253-5570

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05 JUNE 2023

The meeting of the Town of Bristol Zoning Board of Review was held and called to order at 7:02 p.m. by Chairman Joseph Asciola at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

04 MAY 2023

Chairman Asciola called for approval of the May 4, 2023, meeting.

MR. BURKE: Mr. Chairman, I'd like to make a motion that we delay the approval until the July meeting.

MR. SIMOES: Second.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Approval of minutes continued)

SITTING AS THE BOARD OF APPEALS

2. 2023-20

BARBARA J. & ROBERT A. BEER

**825 Hope St. : W HDO
Pl. 5, Lot 17**

Appeal of a decision of the Bristol Historic District Commission (HDC) denying the use of PVC trim materials on the exterior of the existing residential structure.

Attorney Alfred R. Rego, was present for the appellants.

Attorney Tietz stated that for this matter, he was acting as the attorney for the HDC. They had planned to have Mat Oliverio present to represent the Zoning Board on the appeal. However, the HDC dealt with this matter at their prior Thursday night meeting. The HDC also talked about the various issues of the trim and consequently they have an agreed upon resolution, which they would like to suggest to the Zoning Board. They would ask is that, as known, the decision was to deny the use of the artificial material trim on the house. And as part of that discussion on Thursday, it was realized that there is a lot of trim on the house, low, at the top and around the windows. And it appears that some of it would be allowed and some of it would not. So, consequently, the Zoning Board has a very bare bones decision on that aspect of it of the trim part of it. There are the reasoning findings of fact why the trim and whatnot, but not which trim. So, if the Board would agree, would be a motion that they find that there is an error due to the lack of description of which trim this applies to and remand it to the HDC for determination of specifically which trim must be replaced with wood and which trim can remain with the artificial surfaces. On behalf of HDC he was authorized to agree to and Mr. Rego was present to acknowledge that his client would agree as well.

Attorney Rego stated that basically in order for Dr. Beer to continue to put up the clapboard they need to have a starting point and the trim determined the starting point. And the end result of what the HDC began to do is that as they approached each of these items it was already up. There was an exception made regarding the turret and the redesign of that and the historic aspect of that home. So, with the premise of maintaining what exists and the siding that exists there, again, there being so many aspects of it, they couldn't agree on decisions to present to the Zoning Board. The Board does have the option to remand, and they think that it can be resolved all this with a meeting with the Solicitors, the architect, the client and make a presentation of a more formal presentation.

In response to questioning by Mr. Burke, Mr. Tietz explained it would then come back to the Board only if there is still disagreement. If the parties agree and the HDC approves and determines what stays or goes, then the appeal is mute.

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MR. BURKE: Mr. Chairman, I'd like to make a motion that we remand the appeal of Barbara J. Beer and Robert A Beer, 825 Hope Street, back to the Historic District Commission, due the lack of specificity in the trim that was identified by the applicant and ruled on by the Historic District Commission. That we also add this item to the agenda of our July 10, 2023 meeting.

MR. TIPTON: Second.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

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MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Appeal remanded back to HDC)

05 JUNE 2023

SITTING AS THE BOARD OF REVIEW

Continued Petitions

3. 2023-09

DANIEL L. & LILLIAN C. LEESER

12 Brookwood Rd.: R-10
Pl. 22, Lot 183

Dimensional Variances to construct a 24' x 26' accessory garage structure and a freestanding decorative pergola structure with less than the required front yard on a corner lot; and with the garage at an overall size greater than permitted for accessory structures in the R-10 zoning district.

Chairman Asciola stated that Mr. Leeser sent in a letter requesting a continuance to the July meeting, so that he can meet with the Planning Board, as he has different changes to his plans.

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MR. BURKE: Mr. Chairman, I'll make a motion to continue that matter, also, to the July 10th meeting.

MR. TIPTON: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued to July 10, 2023)

05 JUNE 2023

4. **2023-15**
73 GOODING AVENUE LLC.

73R Gooding Ave: M
Pl. 106, Lot 63

Special Use Permit: to temporarily install two prefabricated relocatable storage or shipping containers on a commercial property.

Mr. Dick Ledsworth presented the request to the Board. He explained that they would like to put a couple of storage containers on the north side of the parking lot, which is zoned commercial and industrial. Due to supply chain issues, they had to bring a lot more inventory in-house than they had in the past. They've had a surveyor go out and they plan to put them ten feet from the back property line, based on where the surveyor shows it. The Town Ordinance is six feet, but they would be ten feet from the line. Due to the constant changes in the economic environment, especially since COVID, it would not be prudent to invest in enlarging the existing building.

The Board reviewed the request in detail with the owner of Superior Comfort. Mr. Ledsworth acknowledged that the Special Use is allowed for a short period of time, and that he will have to re-apply if the need goes beyond two years. There will not be any concrete pads installed, there will be a hardpack to set them on.

No one spoke in favor or against the application.

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MR. BURKE: Mr. Chairman, I'd like to make a motion to grant a Special Use Permit to 73 Gooding Avenue, LLC, file number 2023-15 to maintain two storage units on the property in a manufacturing zone. The use of these containers is specifically granted in the Zoning Ordinance and this proposal and application meets the Standards contained in 28-150(i).

Containers must be located no closer than 25 feet from a lot line abutting a residential zoned property for residential use; it's in a manufacturing zone. Containers may not be located in the front yard of any property. The area in which these will be located will be at the rear of the property. Containers may not reduce the amount of off-street parking required by the principal use of the property. It does not. Containers maintained on the property for more than 60 days must be screened by fence or hedge from public view from the road, unless the Zoning Board authorizes exceptions that will not impact the character of the area. This is an industrial zone and screening in many cases has not been provided in this area and it is not needed for the proposed containers. This Special Use is specifically authorized in the Zoning Ordinance, it meets all the Standards, and the granting of the Special Use Permit will not alter the general character of the surrounding area or impair the intent of purposed of the Zoning Ordinance of the Comprehensive Plan of Bristol. It's a manufacturing use in a manufacturing zone and we have heard testimony that⁶ the containers will be used to facilitate business needs, so that this business can service their customers. My motion will be to allow the containers to last for a period of two years and they will not be installed on permanent concrete slabs. I so move.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

05 JUNE 2023

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Special Use Permit granted)

05 JUNE 2023

New Petitions

**5. 2023-21
LUCIA F. GONSALVES**

**20 Thompson Ave.: R-10
Pl. 22, Lot 183**

Dimensional Variances to construct an approximate 14' x 24' accessory garage structure and attached deck addition to connect with an existing deck located to the rear of an existing residential dwelling, with less than the required rear yard and less than the required right-side yard.

Mr. Joseph Mello, 139 Fatima Drive, Warren, RI, presented the Petition to the Board. He stated that he was present only to help Mrs. Gonsalves with her Petition, as her husband recently passed, and she has now had a stroke and is not able to be present. He has been working with Mr. Tanner to get this resolved for the family. The Gonsalves put up a two-story garage. They thought that they had more property than they do, they weren't aware that a utility structure required a variance or a permit. He thinks that where they're from it's just not a thing and didn't understand the process involved. He's looked at everything and the construction looks okay, it's just they need relief from the right and back side.

Chairman Asciola explained that once this structure is connected to the house it no longer becomes an accessory structure and must adhere to the setbacks of a full house side yards. This structure is only four feet off the property line. Mr. Mello stated that perhaps they could just add stairs, connecting it doesn't have to be a thing. Mr. Burke stated that it also has to be six feet from the primary structure in order to not be considered connected.

The Board reviewed this Petition in detail. The Board questioned how something of this size and location could be constructed without building permits. Mr. Mello stated that it was family members who did the construction, there were no contractors involved. In response

to questioning on what a “workshop” entails, which was noted on the application, Mr. Mello stated that the brother-in-law who lives with them does woodworking and then tries to park a car in the garage also. The workshop would be on the second floor.

The Board all agreed that this building is extremely large for the area, it does not fit into the surrounding area and was constructed without any permits or inspections.

Mr. Tanner explained that this matter goes back to last July when the Town was notified that there was construction going on. His understanding is that the Building Official went out and determined that there were no permits, and they were building this garage. As it sits today is pretty much what it looked like when the stop work order was issued. He believes it has been inspected by the Building Official. He also walked through it with Mr. Mello. They have asked for a survey, because the owners weren't sure where the property line is. It was presented as a detached garage, which would be six feet off the side lot line and didn't know where the other property line was. They have submitted a survey and he has been working with Mr. Mello to have the owners come in. A Zoning violation was issued at the end of last year in December. But rather than taking it to municipal court he's been trying to work with all involved. If the Board doesn't grant the required variances, then it will be a violation and will have to come down. If they connect the decking, which they are proposing now, then he believes that's enough of a connection to make it part of the principal structure; therefore, side yard setback and rear yard setbacks would be different. If they leave it separate, they only have a six-foot side yard setback. But there is also a provision that says it has to be six feet away from the principal residence. This garage is almost touching the residence in a couple of locations. So, either way, whether they connect it or not, they would need two dimensional variances from the Board. This is also a non-conforming lot with only a 50-foot line, so it does have side yards of

ten feet if it's a principal structure. So, by connecting it they have a ten-foot side yard. In the rear it would be a 30-foot rear if connected, or only 6-foot if not connected. He thinks that by the distance of the house, it no longer meets the definition of an accessory structure. Whether they connect it or not, a finding could probably be made that it should just be considered as the principal structure.

No one spoke in favor or against the Petition.

Mr. Burke stated that the hardship would be that they have to take it down and the hardship was created by the applicant; so, that's not a reason to grant it.

Mr. Tietz stated that it's just not a hardship, it's not a self-created hardship, its just not a hardship. So, the question of hardship has to be to the property and the question of the use of the property; not that it's been built there at all. The hardship is to the question of the small lot, and does it require the garage and then the question is the least relief necessary.

Mr. Burke discussed that if this had not been built and it came before the Board as a proposal, it would never have been granted and the Board would probably have provided some counseling on what they could do, where they could put it and perhaps actually make it conform.

Mr. Tietz suggested that perhaps the applicant would like to request a continuance to be able to come back with plans of a smaller structure, so that they're not necessarily having to remove the whole thing. Mr. Burke stated that it should be looked at as a clean application and not that it's already sitting there. Mr. Kern stated that he agreed that it would need to be moved to meet the required Standards and it looks like they could have if done correctly. Mr. Burke stated that for the record he would like to make one correction. Under the applicant's name is spelled on the notice it spelled with an "S", gons; its actually gonc; that is the correct spelling and that they recognize that the correct spelling is with a c and not an s.

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MR. BURKE: Mr. Chairman, I'd like to make a motion to deny application 2023-21, 20 Thompson Avenue to install a garage that requires a proximity not to the Ordinance to the principal residence and does not conform to the six-foot setback for an accessory structure. The relief requested is not the least relief necessary, because the structure could be located or downsized to make it comply with the Ordinance. The applicant has not demonstrated a hardship that would require them to build the proposed structure. So, I make a motion that we deny this application.

MR. SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Denied)

MR. SIMOES RECUSED HIMSELF FROM THE BOARD.

6. 2023-23

NATHAN A. & SARAH H. DELL

**12 Paine Avenue: R-10
Pl. 148, Lot 65**

Dimensional Variances to demolish an existing dwelling and to construct a new single-family dwelling with less than the required front yard and less than the required left and right-side yards.

Mr. Nathan Dell presented the Petition to the Board. He explained that they purchased this property a couple of months ago. It is currently an uninhabitable, unsafe house and pretty sure there is only animals in it at this point. They saw an opportunity to improve the neighborhood and own a piece of property. They are hoping to get a variance for the setbacks on the right, left and front. At the moment the front of the existing house is 3 feet from the property line, they are hoping to push it back, but it will still fall within the setback for the front. It's a non-conforming lot; it is very small, and it was some sort of mail road, but it was never really developed. He believes it was built in 1924; they would like to knock it down and make it into something nicer and livable, but still not gigantic. In terms of the setbacks on the side. Currently the house sits is 18 feet wide and they're hope to build at 22 feet wide, which would leave a setback of 7 ½ feet on the left side of the house; currently its 8 ½ feet from the line. On the other side of the house setback of 5 ½ feet on the right side. They would be pushing it back a bit; there's really no parking, it's a tiny road, so they would like to be back away from traffic. He presently lives on Kingswood Road in Bristol, and they just renovated that house. They have just had their first child and the family is swarming in and they will be using this new home to give the family a place of their own to use.

Mr. Tanner noted that this is a non-conforming lot, but it's also a through lot, meaning that it has frontage on two streets. So, the fact that the driveway is coming off of Lindberg, but the setback is the same.

The Board reviewed the Petition, including the survey in detail with the applicant.

Mr. Tanner noted an e-mail from a neighbor, Mary DaPonte in favor of the Petition.

Richard and Tracy Spates, 14 Paine Avenue stated that they are thrilled and favor of the renovation of this property. They are on the side of the 7 ½ foot variance and thinking about it, they have a privacy fence and there are trees on Mr. Dell's side. When they had a survey done and found that their fence should be a foot over but are not in a hurry to move their fence. They were concerned that this might be short term rentals; it's not a big house, but there would be concerns about that; but it seems that won't be the case from what they heard.

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MR. BURKE: Mr. Chairman, I'll make a motion to approve file number 2023-23, Nathan A. and Sarah H. Dell, 12 Paine Avenue to construct a single-family residence with less than the required front yard and less than the required left and right-side yards. The hardship from which the applicant seeks relief is due to unique characteristics of the subject land and not to the general characteristics of the surrounding area or to an economic disability of the applicant. It's in an R-10 zone and this lot is less than 4,000 square feet. It's a narrow lot and there is no way to put a structure on there without granting relief, making the lot not buildable. The hardship is not the result of prior action of the applicant and does not result primarily

from the desire of the applicant to realize greater financial gain. Their renovating and rebuilding of an unsightly property and based on testimony and through documents and supported by the neighborhood. The granting of the requested dimensional relief will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. It's a residential use in a residential zone and many properties in that neighborhood are non-conforming. The hardship that would be suffered by the owner of the subject property, if the dimensional variance is not granted, would amount to more than a mere inconvenience, because it would render the lot not buildable. Included in this motion, dimensional relief for the front yard of 12 feet, exclusive of a front porch of 4 ½ feet by 7 feet. And a side yard relief of 4 ½ feet and 2 ½ feet for the side yard to accommodate the width of the house. I so move.

MR. KERN: Second.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

05 JUNE 2023

MR. SIMOES STEPPED BACK ON THE BOARD. MR. BURKE RECUSED HIMSELF FROM THE BOARD AND LEFT THE MEETING

7. 2023-22

THOMAS A. & LEE H. DAWSON

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

Dimensional Variance to construct an 18' 8" x 22' two-story living area in addition to the rear of an existing single-family dwelling with less than the required left side yard.

Mr. Thomas Dawson presented the Petition to the Board. He explained they would like to construct a two-story addition at the rear of the house. They are actually seeking relief from one-dimensional requirements and that is the side setback. Currently the house is 4 ½ feet from the property line; and they did have a professional survey conducted by a civil engineer, which is included in the Petition. As a result of going through HDC, they want the addition to have a bump to show from existing to new, so they bumped it inward 6 inches to make the new side setback 5 feet. So if approved they will be half of the required side setback for the addition. The house exists as a pre-existing non-conforming on the front and both sides and was built in 1880. The addition will not encroach any further into the setback as it exists.

The Board reviewed the Petition in detail with the applicant.

No one spoke in favor or against the Petition.

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MR. SIMOES: Mr. Chairman, I'll make a motion that we grant the 5-foot variance on the western side of this new addition. This is Petition number 2023-22, Thomas and Lee Dawson. The hardship from which the applicant seeks relief is due to unique characteristics of the subject land and the structure.

It's an old house, it was built many moons ago and, in those days, they didn't have the variances or anything and the lot is a very narrow of 40-foot width. The hardship is not the result of any prior action of the applicant, and it does not result primarily from the desire of the applicant to realize greater financial gain. But as stated, the home was built many years ago and when they built this house it didn't have all of the modern conveniences which they have now. And by putting this addition in the back it will give them more room where they can modernize the master bedroom, the bathrooms and any other items that need modification. By granting the requested dimensional variance it will not alter the general characteristics of the surrounding area. There are many homes in that area where the lots are only 40 feet and they run into the same problem. It will not impair the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. This relief to be granted is the least relief necessary. The hardship that will be suffered by the owner of the subject property, if the dimensional variance were not granted, would be more than a mere inconvenience, because they would not have the conveniences that he needs where he needs more space in the area in the house. Therefore, I move that this dimensional variance be granted.

MR. TIPTON: Second.

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

MR. TIPTON: Aye.

05 JUNE 2023

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

05 JUNE 2023

8: CORRESPONDCE:

Request for an extension variance for Adam Marcaccio, Riverview Avenue.

Mr. Tanner stated this was from 2020 and the Board issued a one-year extension; last year and Mr. Marcaccio submitted a letter with a copy of the decision, and he is asking for another year.

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MR. TIPTON: Mr. Chairman, I'd like to make a motion to approve the one-year extension for Adam Marcaccio.

MR. KERN: Second.

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Extension Granted)

05 JUNE 2023

8. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. KERN: So moved.

MR. SIMOES: Second

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

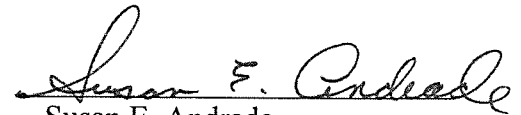
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 8:05 P.M.)

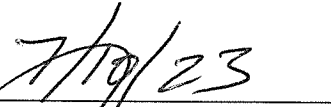
05 JUNE 2023

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 03 APRIL 2023

Date Accepted:



Chairman:

