

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

06 MAY 2024
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. DAVID SIMOES
MR. TONY BRUM
MR. DONALD S. KERN
MR. GOERGE D. DUARTE, JR., Alternate
MS. KIM TEVES, Alternate

ALSO PRESENT:

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

Susan E. Andrade
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Bristol, RI 02809
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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 Joseph Asciola at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

Chairman Asciola called for approval of the April 1, 2024, minutes.

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MR. SIMOES: Mr. Chairman, I'll make a motion to approve the minutes of April 1, 2024, as written.

MR. KERN: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Minutes were accepted)

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2. 2024-14
STEVEN R. COSTA

41 Butterworth Ave.: R-10
Pl. 121 Lot 2

Dimensional Variances to construct a 24' x 36' accessory garage structure at a size and height greater than permitted for accessory structures in the R-10 zoning district.

Mr. Burke stated that he had a prior relationship with one of the owners of the property; that relationship has changed recently, and he doesn't feel that it's appropriate for him to recuse himself. Attorney Bruce Cox, representing the applicant, stated that he took Mr. Burke at his word, has never questioned it.

Attorney Bruce Cox presented the Petition to the Board for a request for permission to build an attached accessory structure, a three-car garage on the lot. While this is an R-10 zone, this is a bowling alley of a lot. It is only 82' wide, which barely meets the requisite of 80' required in an R-10 zone. It is 36,000 square feet in size. The configuration of it and the development of the adjacent lots would prevent any future development; so, while it is an R-10 zone, its 36,000 square feet of space; so the placement of this garage is appropriate and usable. While the plan submitted does not show the opportunity of what would happen if one tried to squeeze a 20' x 24' accessory structure back by the house, he did have other pictures to show, but one can imagine that there isn't a lot of extra space there. If there was just 10,000 square feet and you needed a garage, one could put an accessory structure not connected to the house and meet the setback requirements; but that would be being cute and that's what they have to do sometimes. They don't have to be cute here, they have so much space, it's ridiculous. He felt that this should have been reconfigured back when it was laid out. But whoever laid out these lots, when they were laid out, made these long bowling lots. To the west there are two lots, one has a right on a crosser lot to get back to it. And the other one has an existing house. The

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applicant has spoken to the neighbors, and they have no concerns. The house to the East, towards the Kicki is a mammoth house. So, certainly this little garage is not going to put any onus upon that structure. They would like to have the garage a little slightly higher than normal roof line, simply because it would be foolish not to. The whole concept of an ADU is not planned now, but if one is requested later on, they would have to come back before the Board anyway. To not build this structure with that ability in the future would be wasteful.

Mr. Burke stated that on the application there are two signatures that look like they are identical. He knows that Mr. Colby Costa was present; but it looks like it was also signed by Steve Costa. Mr. Cox explained that Mr. Steve Cosa's children were present that owned the property. Mr. Buke stated he understood the relationship, but they didn't sign it; he signed it for them. Mr. Burke asked to get some conference that they agree with the application. Mr. Colby Costa, 41 Butterworth Ave., acknowledged that he was well aware of the contents of the application and agreed with it to build the accessory structure. Mr. Burke thanked them and stated that he just wanted the record to reflect that the other owners approve of the application.

Mr. Steven Costa, 20 Riverview Ave, Bristol, explained that the reason why he would like to build this accessory structure is because he has three antique cars that he's been trying to house in something that won't ruin them. He can access this site very easily from his present home. He stated that he has no desire at this time to build an ADU on the second level of this structure. He would like to reserve the ability to do that and come back before the Board at any time in the future. There will be power going to this structure and the sewer line is in the general area and would like to tie that to the building so that at least it is there and easier to do during construction; but at this time has no plan to install plumbing facilities into the structure at this time.

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Mr. Cox stated that the goal is to store three antique vehicles, they have an oddly shaped lot, which is a hardship not created by the applicants, they have plenty of space; so the opportunity is there to grant the relief with absolutely no burden on the neighborhood. The Standards are that the hardship is not one created by him, and it fits within the general character of the neighborhood.

The Board reviewed the plans in detail. The garage would be 24 feet from the property line and lines up with the big house to the East.

Mr. Cox presented an arial photo, with an overlay of the area and how it relates to the surrounding properties. The Board accepted it and marked it as EXHIBIT A.

Mr. Cox confirmed that if the structure were to be moved further back, trees would have to be removed; and they would like to keep the existing vegetation and trees.

Mr. Burke asked about the theoretical ADU, which they say they don't have any current plans and asked why they would have any future plans for a dwelling unit on the second floor. Mr. Costa stated because he's here now and the way the garage structure is there is enough room down the road that if something happens, he may decide to go forward. Mr. Burke stated they are asking for a height variance on a theoretical reason. If he had a reason in the application, that would be a different factor. Mr. Costa explained that it is s prefab garage and that is the design they chose. Mr. Burke noted that currently AFDU is not allowed in a detached structure in an R-10. Mr. Tanner stated that he was correct, unless its family and they would have to come in for a Dimensional Variance. Mr. Skwirz stated that the Use under the zoning ordinance is not allowed within the zone. An Accessory Family Dwelling Unit is allowed in every zone by Statute. So, if it was a family member, they could allow it. The problem is, they would need relief from the provisions of the zoning ordinance that requires it be attached.

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Mr. Brum stated that in order for them to turn the subject property into a suitable dwelling, they would need to come before the Zoning Board. Mr. Cox stated that the applicant fully understands that. Mr. Tanner stated that the applicant understands that they can not create a dwelling unit; it can't have current provisions for cooking, eating, living, sleeping, sanitation; so it can't have a kitchen and a bathroom. They can use it as a rec room, as space, but it can't have all the requirements of a dwelling unit; and they do police that.

Discussion was held on the sewer line that runs from the street to the house. To not have a lateral that would certainly be available at the structure and be capped while building the structure would be foolish not to do that.

No one spoke in favor or against the Petition.

Mr. Burke noted that it is a rather large lot, and the Board has allowed oversized garages on much smaller properties. His only concern is about the potential dwelling unit in a detached structure, and they don't know where that will be going in the future. So, he's really cautious about leaving the door open. Mr. Asciola stated it will be 24 feet from the property line; if it was only 6 feet he would have a problem with it. Mr. Brum stated that this lot is almost an acre, but it's only less than 90 feet wide and there is a limit on what they could possibly do. Mr. Kern noted the excessively large house on the abutting lot and this would not be out of character with the area.

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MR. BURKE: Mr. Chairman, I'm going to make a motion that we approve application 2024-14, Steven R. Costa, 41 Butterwoth Avenue to construct a 24' x 36' accessory garage, which is larger than the Ordinance would allow by right; and at a height greater than 20', also allowed by right, at a height that

would be 23 feet; for a 3-foot variance. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not to the general characteristics of the surrounding area, or to an economic disability of the applicant. As was pointed out, both in the plans that we received in the application and with testimony from the applicant, the lot is 82 feet wide and its almost a full acre. It's the configuration of the lot and where the current single-family residence is located that makes it necessary to place the structure where it is proposed. The hardship is not the result of prior action of the applicant. We heard testimony and the records of the property will show that it was acquired three or four years ago. The granting of the requested Dimensional Variance will not alter the general characteristics of the surrounding area, or impair the intent of purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. Its an accessory structure and it does meet all of the setbacks or exceeds all of the setbacks for an accessory structure in a residential lot. 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; he would not be able to store the antique cars that he mentioned; and the recreational space above the building would have to be recreated if we did not grant the height variance. I so move.

MR. BRUM: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

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MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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**3. 2024-15
MICHAEL W. MACKNIAK**

**10 King Phillip Ave.: R-10
Pl. 151 Lot 25**

Dimensional Variances to construct an approximate 34' x 34' second story living area addition and a 6' x 33' front porch addition to an existing single-family dwelling with less than the required left side yard.

Mr. Michael Mackniak presented the Petition to the Board. He explained that he plans to put a second-floor addition on his home to afford him a few more bedrooms. He needs a variance on the north side of the property, which is noted as the left-hand side looking from the street. The lot, as all lots down there, are quite small and in going through the current regs, it appears that the only variance needed is on the north side of the property. It's a non-conforming use as it is now, because the property is so small. He recently became engaged and between them they have four kids and the house as it currently exists is about 1,000 square feet with two small bedrooms. Under the plans that he submitted it shows they plan to get at least two bedrooms upstairs, one bedroom downstairs and hopefully finish the basement off for the teenagers to enjoy. He believes the plans will fit into the neighborhood and fit into the spirit of what the area is becoming. He has spoken with his neighbors, two of which were present at the meeting. He also talked to two others on the other side and one next to them.

The Board reviewed the plans in detail and acknowledged that the height meets the requirements. Mr. Mackniak confirmed that he is above the flood plain.

Ms. Claire Costa, 1255 Hope Street, but in hopes of maintaining the Zoning Board approval, she would like to move into 10 King Phillip with her two children, so she is in favor of this project.

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Mr. Hal Landon, 9 King Phillip Ave., directly across the street from this property. He objects to the second story, because its going to block out his view of Mt. Hope Bay, the bridge, the battleship; that's why he moved there 20 years ago, he love that house. Mr. Mackniak always said don't worry, he was never going to build up. He had a chance to tell him about it before they got to this point, but he did not do that. Its going to be a severe blow to him and to his property value, it's going to kill the property value.

Mr. Asciola asked if he understood that one does not buy a view, unless you have the front house on the water. And he also has the right to build a house 35 feet high.

Mr. Landon stated he understands that, but there is also civility and a man's word. He knows he could build a giant house and that's what's happening in the neighborhood. The house next to him was illegally a short distance and got a variance because the builder knew everybody on the Board. Everywhere around him is getting bigger and bigger.

Mr. Asciola noted that its happening everywhere. He works in Warwick and its happening there. A lot of small waterfront communities, because they have the right to build on these properties.

Mr. Landon stated that just because they have the right, it doesn't make it better. You can make the street so big that you don't see the sunlight at all. He will never see the sunrise again when he builds that; that's the end of the sunrise.

Mr. Burke stated that it looks like they're just requesting a variance for the northerly, or left side yard. Mr. Tanner stated that he believes it's just the left side yard, the north side yard variance. And just to note that as a non-conforming lot, it has reduced side yard setbacks and that changed a little bit as of January 1st with the amendments to the Ordinance to reflect State Law. So, it's a calculation of the ratio of the size of the lot to what's required. So,

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the setbacks get reduced accordingly. This property has 10-foot side yard setbacks, based on his calculations, and he believes they are at 4 feet on the northerly for the house itself. And then the front porch doesn't require a front yard setback, but that's also in the left side yard as well.

Mr. Burke stated that after hearing the impact on the neighbors and the fact that everybody down there buys a house that's 1,000 square feet and they have to increase it; it happens a lot. Its weighing the concern about a view that's going to be diminished versus the man's right to expand a piece of property that he owns and what he's only asking for is for the Board to grant a variance that already exists on the side yard. He is going to weigh what the neighbors say and weigh it against the relief that the property owner is asking for. So, he thinks what he's doing is pretty sensitive and he thinks its under 27 feet in height for a two-story building.

Mr. Rika Smith, 9 King Phillip Ave, stated that obviously her view is going to be diminished, they won't be seeing the sunrise anymore. She asked if it's possible for them to get a construction calendar. She's certain there is going to be a lot of noise over the summer and also with the construction is it allowed to have construction on the weekends.

Mr. Asciola stated he believes they can work any day after 7:00 am. Mr. Tanner stated that the Town of Bristol has a noise ordinance that is enforced by the Police Department, and construction he believes is 7:00 am. During the week and 8:00 am on the weekends and its 10:00 pm during the week and 8:00 or 9:00 pm on weekends; its in the Town Code.

Mr. Asciola stated that as far as the construction calendar she would have to come down to the Town for that.

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MR. BRUM: I'll make a motion to approve file number 2024-15, Michael W. Mackniak to construct approximately 34' x 34' second story living area addition and a 6' x 33' front porch addition to an existing single-family dwelling with less than the required left side yard setback. The applicants request a Dimensional Variance to construct a second story and front porch addition to an existing single-family home. In order to construct the single-family home, the applicant needs a 5' 10" left side yard setback, which is approximately noted as the northerly lot boundary. In addition to the housing structure that will be 34' long, there is a 6-foot variance that is required for the porch as well. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land. It is clear that this neighborhood was established before the Comprehensive Plan of the Town and requires unique relief. And as this Board has seen on several occasions residents who purchase in this area do typically require some relief to change what were previously summer cottages meant to only house a family for three months to year-round homes. The unique characteristic of the subject lot, again, having been partitioned prior to the Comprehensive Plan makes it a substandard lot and requires unique relief. In this particular case the hardship is not the result of any prior action by the applicant. As stated, the applicant did not build the house, but now does look to reside in the home with a family that is growing. And it would be uncharacteristic of this Board and of our

community to not want to provide relief in the case of a growing family in a residence that is capable of supporting them, Granting the requested Dimensional Variance will not alter the general characteristics of the surrounding area, or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town, because, previously I stated that this is a developing community, as it had once been a seasonal community supporting homes for the summertime and it has now become a year-round neighborhood and community within Bristol. And, of course, given the substandard size of the lots and the properties, or the structures that were erected, there will be some relief required in order to make these properties suitable for a family such as the applicants. The hardship that would be suffered by the owner of the subject property, if the Dimensional Variance is not granted, will amount to more than a mere inconvenience. As stated, the applicant owns the property and has shown the ability to improve the property in order to support his family. If we were not that would create more than a mere inconvenience, as the applicant would need to seek a new residence. And for those reasons, I make my motion to approve.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

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MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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**4. 2024-16
ADRIAN SUMMERS**

**16 Jessica Dr.: R-15
Pl. 150 Lot 137**

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

Mr. Adrian Summers presented the Petition to the Board. He explained that it's been raining hard lately, and he's had nothing but water issues. When they purchased the house two years ago, they had no plans whatsoever to try and tear apart the entire backyard. It's really been a nightmare and its been difficult. They're trying to improve the house, improve the lot. They've tore down an ugly rusted above-ground pool, they're trying to put a nice fence, he didn't want it to look like a fortress, so they got something that you can see through a little bit on the top and they have a lot that is a third of an acre and a corner lot. You can see around the corner when you're driving up from either direction. They're not blocking anything. The neighbors have been supportive of the plan. If this gets approved, they can finish the project and have a good summer and enjoy the new pool.

Mr. Burke noted that in the package it says one dimension is listed as 23 feet from Jessica. Mr. Summers stated it will be 23 feet from Addy. Mr. Burke stated it shows from the road and not the property line. Mr. Tanner explained that the fence is going right down the property line. Mr. Tanner calculated the road width and grass area and believes it will be right on the property line. The Board reviewed the existing fence and the subject fence in detail, going east from the west side. The new fence will follow the same line as the old fence, only closer to the chimney. Mr. Tanner stated that he did look into the building department, the existing fence was determined to be on the line, there is no survey on the property, but they did

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look into it and he didn't have an issue with the location. If the relief is granted an fence permit will be used and at that time the Building Official will make sure it's on the property.

No one spoke in favor or against the Petition.

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MR. BURKE: Mr. Chairman, I'm going to make a motion approve file number 2024-16, Adrian Summers at 16 Jessica Drive, to install a fence on a corner lot. It would be in the front yard and it's for a fence configuration that is solid for five feet and then it has decorative pickets that you can see through for the top one foot of the six-foot dimension. The fence will be located precisely where the current fence, that will be disassembled and removed, is currently located. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land; it being a corner lot it has two front yards, so there's always a challenge, particularly with a swimming pool with fencing when you put a pool in the back yard. The hardship is not the result of prior action on the part of the applicant. We received testimony and we can see from the field card that the applicant did not place the house where it is. That the granting of the requested Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. Fences are allowed and we often provide relief for properties that are on corner lots. The hardship that would be suffered by the owner of the subject property if the Dimensional Variance is not granted will amount to more than a mere

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inconvenience. It's actually a safety consideration and not just privacy.

It's also a safety configuration to have a barrier for unauthorized access to the pool. I so move.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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5. 2024-17
JOSHUA HASKELL

770 Metacom Ave.: R-8
Pl. 123 Lot 322

Dimensional Variances to remove an existing 10' x 12' accessory shed structure and construct a new 12' x 24' accessory shed/garage structure with less than the required rear yard and less than the required left side yard.

Mr. Joshua Haskell presented the Petition to the Board. He explained that he would like to be able to enlarge the current shed. He purchased the property back in July, moved in and the house has a fully finished basement and the small storage that they have is a small closet underneath the stairs. So, everything else that they have is in boxes and bins currently shoved into this very small garage. Trying to get to anything that they need consistently have to move everything around, bikes and lawnmowers. The plan is to remove the existing shed, lay down 14 more feet more of concrete to create a 4" slab and put a 12' x 24' single-car garage style shed in its place. Its variance request is due to the minimum distance of 6 feet that he can not get to, based on where the septic is and also there's an existing sort of a pergola concrete slab to the right of the current shed; so, he only has about 22' in between those slabs to move to the right. There's currently 19" on the north side going to the fence line.

The Board reviewed the application in detail. Mr. Asciola wondered why he couldn't utilize the existing slab where the pergola stood. Mr. Haskell stated it was due to the depth required. Mr. Haskell also explained that this would help because they only have the one-car garage with only about a 7-foot ceiling and being able to put something else in for the winter would be helpful. This would be 42' to the east in the rear and right now where the existing slab is its only 19 inches on the north side. He has the additional 22" that if needed could move to the right and give him 41 inches.

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Mr. Burke asked what the chances were of using the current slab. Mr. Haskell stated that its potential. He won't know until he moves everything and gets somebody out there who deals with concrete to see how thick it is, but he doesn't know that at this time.

Mr. Burke stated his surprise to see a letter from the Town's Water Quality Manager saying that there is no hookup off of Metacom Avenue. Mr. Haskell says it is a unique situation, however, the septic had just been renewed prior to his moving in. Mr. Tanner confirmed that this area of Metacom between Fatima Drive and Butterworth does not have sewer access; it's the laws of gravity, it just doesn't work.

Mr. Burke stated that he did look at the plans and does believe this could be moved closer to the interior of the lot, away from the fence and give room for maintenance of the structure and runoff.

During the Board's discussion they determined that by moving the structure onto the property it would provide 41' from the line. Mr. Tanner asked for clarification that the 41" would be from the left, north side yard. Mr. Asciola stated he was correct, where the plans show 19" it would be 41", and still have the 42" in the rear.

No one spoke in favor of or against the Petition.

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MR. BURKE: I'll make a motion to approve, with modification, file number 2024-17, Joshua Haskell, 770 Metacom Avenue, to construct a 12' x 24' accessory structure, a shed garage that will not be 6 feet from either the northly or easterly property line. It will be 42" from the easterly property line and 41" from the northerly property line. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject

land and structure and not the general characteristics of the surrounding area or to an economic disability of the applicant. We've seen the plans and after getting a lot of clarification, we now know that there is no public sewer hookup that can service this property and the applicant is subject to constraints based on the outside water treatment system, which is driving the placement of the shed that he requires for storage. The hardship is not the result of prior action of the applicant. As aforementioned the single-family residence and the treatment system that services it was there when he purchased the property. The granting of the requested Dimensional Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. Accessory structures are allowed in residential areas and the granting of this variance of 2' and some inches will not alter the neighborhood. The hardship that would be suffered by the owner of the subject property, if the Dimensional Variance is not granted will amount to more than a mere inconvenience; he'll be unable to increase the storage of this residential property to a reasonable level. I so move.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

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MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted, as modified)

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6. **2024-18**
 KEVIN MORAN

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

Dimensional Variances to construct a 14' x 29' two-story addition to an existing 25' x 30' accessory structure at a size and height greater than permitted for accessory structures in the F-10 zone; and to create an accessory dwelling unit (ADU) within the proposed structure that is not located within a principal single-family dwelling.

Mr. Greg Spiess, AIA, JHL Tecture Architects , 199 High Street, Bristol, presented the Petition to the Board. Mr. Spiess explained that he has been working on this project with Mr. Moran looking to convert an existing rec room that was built a few years ago on top of the garage behind the principal residence. He now has a family with two children and would like to convert this to a Family Accessory Dwelling Unit. He's now an owner of the land as well as his mother. In looking how to fit this on the lot and extend the property so that it doesn't encroach on any other setbacks; and previously it did. They actually enlarged the lot by merging the lot with the lot next door, which they owned, to make a now 34-foot side yard. They have been meeting with Mr. Tanner on how to proceed with this. So now they have a full R-10, 10,000 square foot lot. Now this addition would only affect 22% of the lot coverage and is now doesn't encroach on anybody, they are not increasing any side yard encroachments. It faces forward toward the principal house. The focus is on three Dimensional Variances to make this work. The first is the height. The height right now is limited to 20 feet. But, because of the addition, the way it is shown in the plans, the way to resolve the sort of added on roof was to make it a little higher. And, also to get better bedroom headroom in the house, as it now seeks to become a dwelling unit. They are asking for 24-foot height at the ridge only. The second part is

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the square footage would be larger than the typical or limited ADU in this area, which is based on 22' x 24'. What they would like to get up to 1,100 square feet. So, the original was 670 square feet, it had a bathroom and now they would like to add 460 feet to it, to create another bedroom and a bathroom. And the third Dimensional Variance is that these typical ADU are connected to the principal house. But in this case, this property was 30 feet away from the garage. However, he thinks they have resolved it from the design standpoint, the addition does go toward that house. So, it's not encroaching beyond that, and it is now facing the house with its front door. So, even from Ansonia Street now, you have a streetscape that shows another residence facing Ansonia. Basically, they feel that these plans are a more attractive building; it's less dense than it was before, because they now have the larger lot, and they find that it has no negative affect on abutters. They're not extending in any direction toward the abutters. The hardship is that he owns the building, and he now needs the room for his wife and new twins.

Mr. Skwirz stated that Mr. Spiess mentioned that it was an accessory family dwelling unit, but the principal structure that's currently on the lot is a two-family residence and asked if those are presently being occupied by the owners. Mr. Kevin Moran, 6 Walnut Street, Bristol stated that there are two long-term tenants. His family does own all the surrounding property, except for the north side. The addition that they are proposing is going towards the Ansonia Avenue side, so that's the only encroachment. He recently retired from the Town of Bristol. He owns a business which got affected by COVID, so the hardship for him is that they were thinking of all the different options of what he could do, and this was the only thing, with his mother living right there. His mother is 77 years old, and he's been there his whole life, so helping her is why they want to stay in the area. Also, she helps with babysitting the children. It's a new family, he never expected this to happen the way it did and the rising cost of

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everything, this was kind of the idea of where they're at, where he can stay close to his mom. He's on his own property and they're not encroaching on anyone else, other than the street.

Mr. Skwirz stated that if the issue is that to be an accessory family dwelling, it needs to be owner occupied. If the two dwelling units that are there now are not owner occupied, then it wouldn't be an accessory to an owner-occupied residence.

Mr. Burke suggested that they modify the two-family and make it a one family and then come before the Board to say you had a hardship and say you don't have enough room, if that's the intent is to move into that location.

Mr. Moran stated that's not the intent, its always been a two-family and he intends to move into the accessory.

Mr. Swirz explained they have two tenants on the property now and they want to expand the garage and then the family is going to move into the garage. But the problem is that an accessory to a principal use and the principal use is not the owner, so it doesn't qualify as an AFDU.

Mr. Kern asked which will be the larger structure, because if the other structure becomes the larger structure, would that be the principal then. Mr. Skwirz stated that there would be an argument that it is, but either way you either have owner occupied with non-family members, or the other way around.

Upon questioning by Mr. Brum about if the structures were connected, Mr. Tanner explained they are in an R-10 zone, 10,000 square feet per dwelling unit and this property has just a little over 10,000; so it's already non-conforming. For a two-family it would be 20,000. So, you can't have a multi-family of a three-family structure in an R-10 zone. But he thinks that

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maybe under the new family AFDU's he thinks the law allows AFDU's to two-families, if one is owner occupied.

Mr. Swirz stated that by the Stature you can't have an AFDU in a two-family. If its inside, if its all one structure, they may not need relief. If its attached and its an AFDU, then they need to come in for relief. If its not an AFDU in the R-10 zone, then its an issue.

A detailed discussion was held on the issues presented by this Petition and the new Laws not yet detailed.

Mr. Swirz suggested that the applicant withdraw or continue to look into all options, such as a Use Variance and what meets the Standards; the applicant could come back in. Mr. Swirz also suggested looking into the low-to-moderate income, apply for an application for a Comprehensive Permit, which allows them to get relief from any zoning limits. The Standards are very different, which he explained in detail.

Mr. Moran agreed to continue the Petition.

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MR. BRUM: I'll make a motion to continue file 2024-18, a dimension variance for applicant Kevin Moran, until the June 3rd meeting.

MR. KERN: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

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MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

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7. **2024-19**
HILARY M. ROSENFELD

9 Pearse Ave, R-6
Pl. 19 Lot 40

Dimensional Variances to construct two 3' x 6' accessory garden shed structures with less than the required rear yard.

Ms. Hilary Rosenfeld presented the Petition to the Board. She explained that her back yard is very long and narrow; it's 34' 7" from fence line to fence line and she would like to put two small sheds two feet from the west fence line. If she puts it 6 feet, it's right in the middle of her back yard. She confirmed that it would be tucked in behind the group of sheds on her neighbor's back yard and she would like to put them 2 feet from the property line. Also, by putting them in that location she wouldn't have to take down any trees. There are a lot of tree roots in the back yard.

Mr. Kern stated he had a problem understanding the middle of the backyard statement after doing the math of the shed being 3 feet deep and its its six feet away, that means she would be nine feet into the property. She has 35 feet, which leaves the other side with 26 feet of room.

Ms. Rosenfeld stated that its hard to describe, but she included some photographs, and it is really narrow at that point and putting it six feet from the property line it would be nine feet in, so that really cuts off her back yard. There is a fence on the other side, and it would limit the ability to do any kind of landscaping there. It would also help her not to have to put fencing there and the sheds will act as a fence as well.

Ms. Rosenfeld stated that she has to have a concrete pad put in to make sure that they don't rot from underneath, so they would be permanent structures. The pad will be 15 feet long to accommodate two sheds and the space in between.

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Discussion was held on construction choices to place the sheds on the property and Ms. Rosenfeld stated that she has had estimates from contractors and due to the wet nature in her yard she wants to follow the advice of her contractor.

Mr. Tanner explained that the sheds are only 6' x 3', 18 square feet. The applicant does not need a building permit. However, the policy in the office is that even though you don't need a building permit for an accessory structure less than 200 square feet, Ms. Rosenfeld came in and was advised that it still needs to be six feet away from the lot line.

Ms. Rosenfeld stated that her neighbor's shed are about four feet from her property line. Mr. Asciola explained that if she put her sheds four feet instead of the requested two feet or the required six, it would give her some room.

Arthur and Brenda Stahl, 12 Pearse Ave, abutting property owners, spoke in favor of the Petition. Mr. Stahl stated Ms. Rosenfeld has discussed this with them and it would be nice if she could preserve as much of her yard as she can. Ms. Stahl, upon questioning by Mr. Brum explained that the neighbor behind Ms. Rosenfeld just keeps a lot of yard equipment there, it's a multi-family home and so there's a lot of stuff back there. And they were hoping that when Ms. Rosenfeld puts her sheds up, because they could see all of the sheds in whatever level of disrepair that line her property; if she put a couple of sheds there, they wouldn't have to look at all that, because its pretty bad. Those other sheds have been there at least 15 years.

Ms. Rosenfeld stated that frankly her problem is that her neighbor just throws his junk there and she's looking for a way to block that as a fencing area and disguise it.

The Board informed them that they could call the Town and voice their concerns, as there is someone that actually goes out and looks at stuff like that and if its an eyesore they can take care of it.

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MR. BRUM: I'll make a motion to approve file number 2024-19, Hilary M. Rosenfeld, 9 Pearse Avenue. The applicant is seeking Dimensional Variance to construct two 3' x 6' accessory garden shed structures with less than the required rear yard setback. The applicant is requesting relief for 2 feet from the rear lot line to place two 3' x 6' garden sheds roughly in a 30' 2" space that will be four feet off of the rear lot line, which would make that the westerly boundary. Though diminutive in size, the structures are considered permanent structures, because they will be fixed with some type of foundation. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and the structure in which the house is placed upon the subject land. It's not the general characteristics of the surrounding area, nor is it the economic disability of the applicant. This particular section of Town is one of the most historic and oldest sections of Bristol, where you find several homes that were constructed during Colonial and early colonial times, where you've got smaller, more densely used lots, which in this particular case this property on Pearse Avenue has a smaller than characteristic rear yard setback. And placing these sheds within six feet would even lessen the applicant's ability to utilize an already diminished area for storage and/or recreation. The hardship is not the result of the prior action for the applicant. As the applicant stated, she did not build the property there and has purchased the home and by granting this requested Dimensional Variance won't alter the

general characteristics of the surrounding area. As her neighbors have testified, there are several sheds in the area and there are sheds in particular in her abutting neighbor, which are closer and may be considered within the same distance from the property line as the proposed structures. The hardship that will be suffered by the owner if the Dimensional Variance is not granted would be more than a mere inconvenience, because it is necessary when landscaping and the property requires a place to store tools and equipment that are used for the maintenance of the property. Given the diminished size of the lot and that doesn't afford much room within the house for storage of equipment and seasonal furniture; so by not allowing this, we would be limiting access to the applicant's back yard and to enjoy their residence. And for those reasons, I so move.

MR. KERN: I'll second that.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition granted as amended)

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8. 2024-20

**DANIAL FERREIRA/
Fair Wind Properties, LLC**

**1 Coggeshall Ave.: R-10
Pl. 147 Lot 50**

Dimensional Variances to construct approximately 100 feet of eight-foot-high fence along a portion of the easterly property line at a height greater than permitted for fences in a residential zoning district; and to install approximately 30 feet of six-foot-high fence between two existing residential structures, portions of which would be located within the front yard from Coggeshall Avenue at a height greater than permitted in a front yard.

Mr. Danial Ferreira, 204 Poppasquash Road, Bristol, presented the Petition to the Board. Mr. Ferreira explained that he's looking to put an 8' fence along the easterly side of the property from the front of the street 100 feet in all the way into the next neighbor's property. The reason for this is actually requested by the neighbor, Mr. Ted Hayes, who has requested more privacy from that side. He was in front of the Board maybe back in May 2023 for this property and they had made the approval based on providing as much privacy as he possibly could for the neighbors and Ted Hayes has requested more privacy for his property. He's not opposed to giving him more privacy and he requested an 8-foot fence. He has the neighbor's approval to be able to put that 8-foot fence up. He explained the extreme slope of the land in detail and explained the fence won't be seen by anyone than the residents of the property and Mr. Hayes. The other two six-foot fences are between the two properties. One on Coggeshall, which on the corner of Narrows and 5 & 7 Coggeshall, which are the two-family just along the Coggeshall side; they are looking to put a privacy fence in between those two units to provide privacy for the two neighbors when they're outside utilizing the patio space.

The Board reviewed the plans in detail. It was determined that the fences will not interfere with any traffic visuals, the fence will be going to the property line. And there is quite a

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distance from the property, approximately 15 or 20 feet. Also upon statements by Mr. Burke on the visual of what has been built versus the plans reviewed, Mr. Tanner explained that he has looked at these plans many, many, many times with the Building Official with the same question, because on the east side, on the low side, there is a large wall because there is a walk out basement with means you're looking at a three-story house on the west side, but on Coggeshall it's a two-story house. Mr. Ferreira was here last year and his plans at the time were sketches, not full-blown architectural plans, they didn't have the full foundation plan, but he did show elevation views from Coggeshall and from Narrows and he did have building heights; and these plans are dead on. The plans were also brought back to the TRC where they were approved.

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MR. BURKE: I'll make a motion, Mr. Chairman to approve application file number 2024-20, Danial Ferreira/ Fair Wind Properties, LLC, 1 Coggeshall Avenue, to erect a hundred-foot section of 8 foot in height of fence on the easterly border and to erect a six-foot fence in between the two resulting structures of this redevelopment project. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and structure and not to the general characteristics of the surrounding area or to an economic disability of the applicant. The applicant is responding to a request from an abutter to put in a fence over the Ordinance requirement, or what could be put in by right, to establish a level of privacy between the two properties. The hardship is not the result of prior action of the applicant, as mentioned before, it's responding to a request by a neighbor. The granting of the requested Dimensional

Variance will not alter the general characteristics of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. The fence will basically only be viewed by the two abutting properties. That the hardship that would be suffered by the owner of the subject property, if the Dimensional Variance is not granted, will amount to more than a mere inconvenience, that he will not be able to accommodate the request from his neighbor. Also, the fence will be erected in accordance with the plan submitted with the application to eliminate any possibility of vision clearance when leaving the right-of-way. I so move.

MR. SIMOES: I'll second the motion.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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9. CORRESPONDENCE:

Request for extension of variance approval for John M. Lanna/Fairpoint Realty, LLC Roseland Ave. File number 2020-41

Mr. Asciola read a letter from Mr. Lannan explaining the circumstances for requesting a one-year extension.

Mr. Burke stated that this is the second request. He has no problem with this application, but if somebody comes back a third time, he would like them to resubmit an application and/or appear in person.

X X X X X X

MR. BURKE: I'll make a motion to extend this approval for one year.

MR. KERN: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(One-year extension granted)

10. 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. BRUM: Aye.

MR. KERN: Aye.

MR. ASCIOLA: Aye.

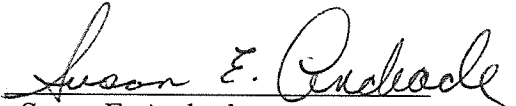
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:20 P.M.)

06 MAY 2024

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 06 MAY 2024

Date Accepted: 7/15/24

Chairman: 