

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES
THE ZONING BOARD OF APPEALS
OF BRISTOL, RHODE ISLAND

05 MARCH 2018
7:00 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. BRUCE KOGAN, Vice Chairman
MR. DAVID SIMOES
MR. TONY BRUM
MR. DEREK N. TIPTON, Alternate
MR. DONALD S. KERN, Alternate

ALSO PRESENT: ATTORNEY AMY GOINS , Town Solicitor's Office
MR. EDWARD TANNER, Zoning Enforcement Officer

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

**1. APPROVAL OF MINTUES:
05 FEBRUARY 2018**

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MR. KOGAN: The first matter on the agenda is the approval of the minutes of February 5, 2018. Is there a motion to approve the minutes as submitted?

MR. KERN: So moved.

MR. TIPTON: Second.

MR. KOGAN: All in favor?

MR. SIMOES: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Minutes accepted)

**3. 2018-03
BRADLEY W. ST. VINCENT**

**36 Division St.: R-10
Pl. 148 - Lot 89**

Dimensional variance to re-construct the rear portion of an existing single-family dwelling to a size of approximately 11' x 28' with less than the required left side yard.

Mr. Kogan explained that the Petitioner has requested that the hearing be continued to the April 9th meeting.

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MR. SIMOES: Mr. Chairman, I'll make a motion that Petition 2018-03, 36 Division Street, be continued to April 9th.

MR. KOGAN: All in favor?

MR. SIMOES: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

NEW PETITIONS:

- 4. 2018-05**
LISA & CHARLES MCCURDY **1326 Hope St.: R-10**
Pl. 92, Lot 37

Dimensional Variance to construct a 14' 7" x 24' garage and 4' x 8' 1" mudroom addition to an existing single-family dwelling with less than the required right side yard.

Lisa and Charles McCurdy and Julianna Haughton, designer, presented the Petition to the Board.

Ms. Haughton explained that the McCurdys would like to construct a one-car garage to be attached to the single-family residence, which would put their right side yard setback 1' 9 1/2" instead of the required 12' 6". The garage would be set off from the house 4 feet to preserve existing windows and access to the rear yard; and in the four feet would be a small mudroom to connect the house to the garage.

Ms. McCurdy explained that they want to protect their property from the weather, such as a car and yard equipment. They're also on Hope Street, which is a busy roadway and with the limited size of their current driveway it can be extremely difficult to maneuver the cars and backing out is dangerous. The garage would give them more space in the driveway to move the cars around and be able to see when pulling out, instead of having to back out. The driveway would be "T" shaped in order to turn the cars around and drive out on to Hope Street.

The Board expressed concerns about this garage being so close to the property line, as there would be no room for maintenance. The Board reviewed the Petition in detail with the applicant and suggested several alternative designs which would help in

preserving at least the upstairs window and also preserving the rather large mature tree in the rear yard.

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MR. KOGAN: I'll make a motion that the applicant's Petition for a dimensional variance to erect a garage addition to an existing family dwelling with less than the required right side yard be granted to enable the applicant to build the garage addition within 6 feet of the right side, or southern property line. The reasons for that motion are that there exists a hardship due to unique characteristics of the subject land and the structure upon the subject land. Not arising from the general character of the surrounding area. That hardship is that this existing house, which was constructed years before the applicant took title to the property, which they testified they took ownership of the property just recently. The structure is on a narrow lot, only 62 1/2' feet wide at the front property line. And it was built without a garage at all and it was located in only approximately 6 feet from the left side property line and a conforming 20 feet from the south, or right side property line. However, there is no garage on the house and that creates a hardship, to which the applicant or Petitioners testified that the house is located along Hope Street, which is a very busy street, making ingress and egress to their driveway very difficult. And without a garage they testified they frequently have to back out on to Hope Street, which would be very dangerous. And that if they had a garage where they could keep one of the cars, then the configuration of the driveway is such that

cars could be turned around and be exiting on to Hope Street front end first, which would be a much safer situation. They also testified to the need for storage of yard equipment and the like; they presently have no such storage. And they testified that having a garage would be, in our current climate, very helpful, given weather and parking cars outside and having to then run to enter into the house. This hardship, given the lack of garage and the narrowness of the property is not the result of any prior action on the part of the Petitioners, because they, as they testified to, they only bought the house a few days ago. The hardship is not due to any economic disability on the part of the Petitioners, nor to a desire to gain greater financial gain. Rather the hardship is just to gain more utility in their use of the house as their new home. Granting the requested dimensional variance will not alter the general character of the area. The Petition demonstrates many homes built with one and two car garages in the immediate neighborhood. And certainly this member observed similar garages on most of the properties in that neighborhood. This one seems to be a little bit out of character not having a garage at all.

Granting the requested dimensional variance will not impair the intent of the Town's Comprehensive Plan, which encourages residential use in this particular neighborhood. The relief granted, although less than what was requested by the applicant, is the least relief necessary to enable them to erect a usable one-car garage at that; and to maintain some reasonable passage for distance around the house to gain access to the rear property

and to maintain the garage once erected. And the applicants would suffer a hardship more than a mere inconveniences, were we to deny this variance, because they would then have less off-street and unprotected off-street parking. So, for those variance reasons, I move we grant the variance, enabling them to build the garage to within 6 feet of the right or south side property line.

MR. SIMOES: I'll second that motion.

MR. KOGAN: All in favor?

MR. SIMOES: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition granted, as amended)

**5. 2018-06
SUSAN PASQUAL**

**8 Dartmouth St.: R-15
Pl. 113, Lot 59**

Dimensional Variance to construct a 16' x 16' bedroom and bathroom addition to an existing single-family dwelling with less than the required rear yard.

Mr. Kogan explained to the Petitioner that due to the fact that one of the Board members, Mr. Tipton, is an abutting property owner and cannot sit on this matter. Seeing that only five Board members were present, this matter would have to be continued to the April 9th meeting in order to have a quorum.

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MR. BRUM: I make a motion that we continue Petition 2018-06 for Susan Pasqual, 8 Dartmouth Street until next month's meeting, April 9th.

MR. KERN: I second that.

MR. KOGAN: All in favor?

MR. SIMOES: Aye.

MR. BRUM: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

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MR. KOGAN: Does anybody want to speak in favor of the Petition? Does anybody want to speak against the Petition?

MR. BRUM: I make a motion that we approve the dimensional variance to construct a 33.5' x 68' single-family dwelling and garage, with the front porch having less than the required front yard setback. The variance that would be required is a 3.5' variance for a front yard setback, as in an R-20 zone the required setback would be a 35' setback. The hardship from which the applicant is seeking relief is due to the unique characteristics of the subject land. As we had mentioned, the ledge that is below the surface on this piece of property does not allow for easy movement or relocation of the proposed home that will be built. The rear yard setback and the L-shaped lot, in itself, also creates a challenge for positioning the house further back to create, in essence, a rear yard setback variance. In this case there would be a variance required either front or rear yard; and given the ledge and the fact that it would impede on the use of the back yard, the variance for the front yard would be the least amount of relief that we would be offering. The hardship, again, is due directly to the characteristics of the land and it by no means is the result of any the actions of the applicant. We're not altering the characteristics; this property is where homes are already existing in this neighborhood. The lot was subdivided to build a home specifically as the applicant has mentioned. It does not impair the intent or purpose of the Comprehensive Plan for this neighborhood. The relief that

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we're providing is the least relief necessary. And for these reasons stated, I propose that we approve this dimensional variance.

MR. SIMOES: I'll second the motion.

MR. KOGAN: All in favor?

MR. KERN: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

**7. 2018-08
DAVID & JANE GUINTHER**

**923 Hope St.: R-10
Pl. 5, Lot 1**

Dimensional Variance to demolish an existing accessory garage structure and construct a new 21' x 28' accessory garage structure at a size larger than permitted for accessory structures in a residential zone.

David and Jane Guinther, owners, presented the Petition to the Board. Mr. Guinther explained they have a pre-existing nonconforming garage that was on the property when they purchased the property, about 2 1/2 feet from the north boundary. They would like to demolish the existing garage, move the new garage to the left on the property about 5 feet to make it conforming and also to save a really large shad tree. They would then like to move the garage towards the street about 5 feet in order to expand the size of the garage. They are keeping the garage minimum width, because there's a significant drainage problem from water runoff from their neighbor to the north at 927 Hope Street, which is the reason they have sandbags in front of the existing garage. The resulting structure would be approximately 4 feet larger than the permitted 24 feet and it would come in the front of the garage, keeping the back of the garage approximately at the same location, protecting another large shad tree.

Upon questioning by Mr. Kogan, Mr. Guinther confirmed that the structure will be 1 foot narrower than the maximum width, because they're trying to kept it for the narrow for the drainage on the north. And the additional depth is due to the necessity to store lawn equipment for the lawn equipment and the many bikes that they have. The height of the garage will be 15 feet high, in order to keep a garage that is line with the house and the neighborhood, where hopefully one couldn't tell the difference when

looking from the front, except it will look nicer. There will be no second floor and there will be no storage upstairs.

Mr. Kogan noted the significant rehabilitation of the dwelling. Mr. Guinther stated that the house was built in 1880 and they are trying to bring it back to its original architecture.

The Board reviewed the photos that the applicant supplied to the Board in detail. Mr. Guinther explained the problem with the water runoff from the neighbors and the purpose of moving the garage south, in addition to maintaining the tree, their intention is to put a slight swale so that all of the runoff goes behind the garage.

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MR. KOGAN: Does anybody want to speak in favor of this Petition? Does anybody want to speak against this Petition? Do we have a motion?

MR. SIMOES: Mr. Chairman I'll make a motion that we grant the applicant the variance to demolish the present garage and to replace it with a 21' x 28' new garage. The new garage would be 7 1/2' from the northerly property line. Right now its about 2, 3 feet. Plus he wants to move it further to the south, so that he can have more room on the side of the driveway. This hardship that he seeks relief is due to any unique characteristics of the subject land. There is quite a bit of land in the area, so I think it would be a big improvement also. And it's not the hardship of any prior action of the applicant. This garage has been around for quite a few years and its all deteriorated, plus there's a big tree on the side of it that's more or less working its way into the garage. And by granting this dimensional

variance it 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. This is the least relief necessary being granted. For that reason I move that the dimensional variance be granted to the applicant.

Mr. Tipton: I'll second.

MR. KOGAN: All in favor?

MR. KERN: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

**8. 2018-09
LILLY MITCHELL**

**418 Metacom Ave.: R-10 SW
Pl. 155, Lot 20**

Dimensional Variance to install an 8 square foot freestanding home occupation business sign at a size larger than permitted for home occupation businesses in a residential zone.

Ms. Lilly Mitchell presented her Petition to the Board. Ms. Mitchell explained that she would like a sign on her front lawn for her home occupation and she needs a more noticeable, visual signage for her clients that she does by appointments only. Right now its kind of hard to even notice her sign at, it's very small and difficult for her clients to see. As the Board is aware, Metacom Avenue is very busy and has many commercial businesses in the area. The wall at Dunkin Donuts also makes it more difficult for people to see her present sign.

The Board reviewed the Petition in detail, along with photographs supplied by the applicant, in detail. Various locations and distances from the roadway were discussed. The requirements for a home occupation sign in Article 10, Table 1, with regard to location, dimension and ground clearance for Free standing signs, were reviewed and discussed in detail. It was noted that if allowed the sign would only have the applicant's name, along with her business name, and would not have a phone number.

Mr. Dominic Calarco, 413 Metacom Avenue spoke against the Petition. Mr. Calarco expressed concern about signs in residential on Metacom Avenue. He lives right across the street from Dunkin Donuts and Enterprise car rental. He wants her to do well in her business, he just doesn't know if he wants a sign in the yard and not on the side of her house. He knows that when he moved into Bristol in 1986 he wanted to put a sign up

for his business and he was told no, residential. His neighbor on the other side of Carr Lane wanted to put up a seamstress sign and she was told no. He knows there are other people who live on Metacom Avenue who have businesses, but they don't have any signs up and is this going to be a Pandora Box where all of a sudden signs are going to start popping up. He doesn't know if she can do something above her door; she's got a peak there where maybe she can put up larger letters or something. He wants her to do well, he just doesn't want to all of a sudden signs popping up all over, they have enough congestion with signs on Metacom Avenue.

Ms. Madeline Ferreira, 16 Academy Avenue expressed her concerns about the signage and her line of sight coming out of Academy Avenue. She has lived there for over 50 years and traffic is horrendous getting out with even just the pole that's in the corner makes it difficult to see. She came down to see if the sign will be in her way. It's a very busy street and a lot of times there are vehicles parked at Dunkin Donuts and you just can't see to get out. That's her main concern. She stated that she doesn't understand what the planned sign is and the problem it would cause. The Board explained on how high the signage would be and its location; the proposal is a sign that would be on some sort of frame work, it would sit above the grass, the bottom of the sign would 1 foot above the grass and the height of the sign face would be two more feet high, for a total of 3 feet from the top of the sign to the ground; there would be an open area one foot below the sign face. The sign would be 3 feet wide by 2 feet high. Ms. Ferreira said she could probably be able to see if it was set back at least 10 feet from Metacom Avenue.

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MR. KOGAN: I'm going to make a motion that the Petitioner's for dimensional variance with regards to a home occupation business sign that is larger than permitted in a residential zone be granted, in order to enable Ms. Mitchell to install a home occupation sign, sign face of which would be 2 feet high and 3 feet wide, that would read the occupant's name, Lilly Mitchell and nature of the home occupation, which is Astrology and Psychic Reading; although it could be Psychic Reading and Astrology. And that home occupation sign would be located consistent with the requirements of Table 1 in Article 10; located at a minimum distance of 5 feet from all lot lines and the height and ground clearance; ground clearance of 1 foot, maximum height of 3 feet. Surface of the sign being 2 feet high by 3 feet wide. The reasons for that variance are that there is a hardship due to the unique characteristics of the subject land and or structure and not the general character of the surrounding area. This is a uniquely positioned home that is on the boundary line between a residential zone, in this case a R-10 SW zone, which is immediately adjacent on its southern property line to an extensive general business zone which runs several blocks to the south, including quite a few businesses, Dunkin Donuts, Enterprise Rental, a plaza with CVS and other businesses. On the opposite side of the street there are commercial properties as well, including Gil's Appliance and a SubWay sandwich shop. That hardship is in part due to the location at this juncture between the residential zone and a commercial zone and not the

general character of the surrounding area, which is residential to the north, but commercial to the south. That location also has the commercial business immediately to the south having erected a four foot high fence that obstructs some visual view of the house for traffic flowing on Metacom. This hardship is not the result of any prior action on the part of the applicant, the applicant didn't lay out the house or the zones in this Town. The hardship is not due to any economic disability on the part the applicant or a desire on the part of the applicant to realize greater financial gain. The Board does recognize the applicant wishes to live at this property, but also conduct her home occupation business and that is an enterprise designed to make some kind of financial profit. However, there is a concern that the Board has of visibility of this home occupation business along a heavily traveled highway and concern about the speed at which traffic passes by this property. Recognizing that although the speed limit may only be 35 mph at this location, that is not the actual speed at which many vehicles pass by this location. And there may be customers or clients of the applicant who are looking for her location and having only a 2 square foot flush mounted home occupation sign on the wall of the house would create a potential safety hazard for people looking for the business and then slowing down rapidly, because they haven't been able to locate it as they are passing by; and that could create a safety hazard. There was some testimony on the part of one of the commenter to the application that there was a concern about visual blockage of the view

from Academy for traffic coming out from Academy and it is the belief of the Board that locating it 5 feet back from the property line will satisfactorily create enough clearance, because the property line appears to be at least 8 feet from the paved portion of the shoulder of Metacom Avenue. So that if it were set back at the distance of five feet from all property lines, that there would be enough of an open space area that traffic coming from Academy to the West, entering on to Metacom, will not be blocked in its view. This dimensional variance will not impair the intent of the Town's Comprehensive Plan. We did hear testimony from Mr. Calarco concerned about opening up Pandora's Box and creating a flood of signage along the residential portions of Metacom Avenue. And I think perhaps at a different location that might be more of a concern. But this is a property immediately adjacent to a large commercial area that then runs for quite a few blocks. This property maybe should never have been zoned residential, should have been included in the commercial zone up to Academy; but it is now being used as a residence with a home occupation. And that is something that is provided for in the Town's Comprehensive Plan and in the Zoning Ordinance. The relief granted is the least relief necessary; it's less than what the applicant for, she asked for a larger sign. And it also indicates that it would be more than a mere inconvenience were we to deny her or to limit her to just the 2 square foot sign flush mounted on the wall of the house, because nobody would really

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see that and I think it would create a hardship and a safety hazard. So, for all of those reasons, I make the motion that I offered.

MR. SIMOES: I'll second.

MR. KOGAN: All in favor?

MR. KERN: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted As Amended)

the 104 1/2' listed on drawing. AS-1. Mr. Tanner confirmed that the Class A survey shows 19,990, but all of the Town Plat maps show 20,000.

Mr. Kogan noted that they would need 15' 11" lot width and 10 square feet for lot area to meet the requirements in an R-10 zone.

The Strongs confirmed it would be a true-two family dwelling, not an AFDU and reviewed the drawings with the Board in detail on where the dividing lines for the two separate dwelling units exists.

Mrs. Strong explained that her daughter, son-in-law and grandchildren would be living in the other unit, hopefully to take care of her and her husband as they age.

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MR. KOGAN: There is no one left to speak either in favor or against, so does anyone have a motion?

MR. TIPTON: I'd like to make a motion that the application for dimensional variances for number 2018-10 be approved for the following reasons. First one is the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and apparently the fact that its not quite trued up. So, it's due to the unique characteristics of the subject land, or how its developed over the years into something not quite square, as we heard from the Architect. The hardship is not the result of any prior action on the part of the applicant. It does not result primarily from the desire of the applicant to realize greater financial gain, because the kids might not help with the mortgage. 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. And that the relief requested to be granted is the least relief necessary. As to the lot size variance, we've heard there are a few different measurements, 19,990 square feet and 20,000, which is required. The 20,000 square feet which is required exists in some form or another. The hardship that would be suffered the owner of the subject property if the dimensional variance is not granted will amount to more than a mere inconvenience, because they won't be able to live together as a happy family. For those reasons I move that these dimensional variances be granted.

MR. BRUM: I'll second.

MR. KOGAN: Before we do that I actually should have put this on the record, even though I don't think it's going to change your motion at all. There was received in the Town Community Development Department today an unsigned letter, which I will read into the record, even though it's anonymous I'll read it into the record, I don't think it's going to change your motion. It relates to 1226 Hope Street and reads, Honorable Zoning Board, I live within 200 foot radius of 1226 Hope Street and have a few questions and statements pertaining to the variance request. First what would the hardship be in this case. The property was recently bought. Hardship is due to unique characteristics of the property, I don't see any unique characteristics. Second, why do the homeowners want a two family when they can put on an addition and have their daughter and family live there.

The concern is that eventually the property will be rented to non-family members, which may include college students and we all know how that works out for the rest of the neighborhood. Third, there are no two-family dwellings in this area, so this would be out of character for this area. Fourth, the applicant stated that they were told that they would get this variance and that is why it would be more than a mere inconvenience if it was not granted. There is no single person that makes that decision, this is why there is a Zoning Board, correct? So that's what that unsigned letter reads, I don't whether that changes anything on your motion.

MR. TIPTON: My motion stands.

MR. KOGAN: And I believe Mr. Brum seconded, is that correct?

MR. BRUM: I did.

MR. KOGAN: All in favor?

MR. KERN: Aye.

MR. SIMOES: Aye.

MR. KOGAN: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

10. ADJOURNMENT:

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MR. SIMOES: I'll make a motion to adjourn.

MR. TIPTON: Second.

MR. KOGAN: All in favor?

MR. SIMOES: Aye.

MR. TIPTON: Aye.

MR. BRUM: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTIONS WERE UNANIMOUSLY APPROVED)

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(THE MOTION WAS UNANIMOUSLY APPROVED)

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

05 MARCH 2018

RESPECTFULLY SUBMITTED,

Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 05 MARCH 2018

Date Accepted: _____

Chairman: _____