

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

MINUTES
THE ZONING BOARD OF APPEALS
OF BRISTOL, RHODE ISLAND

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

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. JOSEPH ASCIOLA, Chairman
MR. BRUCE KOGAN, Vice Chairman
MR. DAVID SIMOES
MR. CHARLIE BURKE
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
91 Sherry Ave.
Bristol, RI 02809
401-253-5570

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05 FEBRUARY 2018

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:
04 DECEMBER 2017; 08 JANUARY 2018**

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MR. ASCIOLA: First order of business is the approval of the minutes of the December 4, 2017 and January 8, 2018.

MR. BURKE: I'll make a motion to accept the minutes as written.

MR. KOGAN Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

projects with greater than five dwelling units; which is still in effect today. She believes they should review that ordinance after this application coming in and look at it with an eye at maybe requiring it in the Down Town zone as well. She feels that this application raises a red flag to her that other property owners may seek the same relief, which she thinks would be detrimental to the Down Town Business District. The other issue is that the property is already received relief for a second dwelling unit and she's not quite sure what the testimony has been thus far on the hardship. She saw that there appear to be a commercial tenant already in this space; so it does seem that this is somewhat speculative. She thinks there is a demand for commercial uses, she thinks there's a demand for spaces like this, which you could put in an artist, an office; they've even been looking for places to put in a small brewery in Bristol, because that's kind of the up and coming industry. She's not only concerned about keeping the commercial aspect for the economic development, but she's also concerned that the first floor residential unit is not compatible use for this area. If you go back there, you'll see within very close proximity dumpster, grease dumpsters and other areas that the adjacent businesses need in order to conduct their operations. I think this would impact the existing businesses. They've seen this before where a use becomes a nuisance to a resident and they're trying to work with and coordinate with the businesses to modify how they do business. They see this alot, in fact, they had in the past some applications not in the Down Town, but in the manufacturing zone on Broad Common Road, where an applicant came in to change the zoning to residential because they claimed they couldn't get a buyer for the property; it was later sold to a big manufacturer in Bristol that has done very well here. They see issues between the residential and commercial uses in neighborhoods where they do this.

So many times when people look at the zoning map on Broad Common Road and Wall Street, they'll ask her; how did you let manufacturing go into these residential neighborhoods; and she had to explain that it was the other way around. So she sees this as a similar type of application. She also believes that parking would be more of an issue for the residential use, as there is an expectation that residential uses, you should be able to park right in front of where you live. This is not necessarily the case with commercial. And in the past this Board has felt that residential parking is really more important if you had to weigh them. She also explained that Ed Tanner has made copies of the Zoning Board minutes from the prior application on this property in 2007. If you review them, there was a lot of discussion about the things she just brought up. In fact, there is even some comments about whether the second unit should have been allowed; and some of the members at that time felt that maybe having two commercial and one residential was a better way to go.

Mr. Kogan stated that he heard Ms. Williamson say that there is a tenant in the commercial first floor and asked Mr. Tanasio if that was an accurate statement.

Mr. Tanasio stated that it's accurate to the extent that he's there. He keeps him there more because he's been there since he constructed the place. However, he's already expressed the fact that he's leaving. He pays the tenants internet, the heat and the electric in order to keep a warm body there, as opposed to being vacant. He's not making any money on that unit. The tenant also unofficially helps manage the building and that's why he keeps him there. And he knows that regardless one way or the other of what happens with this Petition, he has to raise the rent and the tenant will leave. The present tenant is a gentleman who works for a wholesale company and he had one employee in

the beginning; she left and he's now looking to take the business to his home if the rent increases. He's commercial office use. Mr. Tanasio also asked to briefly address some of the comments made by Ms. Williamson. He stated that this particular property, if there's ever going to be a variance, or anything going against the Comprehensive Plan, it would have to be for a property such as the one he owns. He agrees there should be mixed use in a Down Town area; to the extent that you have street front access. There's no restaurant retail, or even an office that's going to want to pay what rent should be there. And that's been his dilemma; because there's access through a private right-of-way. He presented a letter from Mr. and Mrs. Gatos who already have a lot of unauthorized parking problems. Their concerned about parties trespassing, or going to the building through pedestrian traffic, as a result of potential liability to them. This is a landlocked parcel, which makes it unique in and of itself, as to any other property in the Down Town area. He finds it hard to believe that the people who created the Comprehensive Plan would think that his particular property is similar in any way to any other property in the Down Town district, because it doesn't have street access or public access. He's has residents in there, they've lived comfortably; no one complains about the other commercial buildings or dumpsters or anything of that nature. They enjoy the Down Town living and they actually think it's a benefit to be off of the main road, it's quieter back there, they enjoy that; regardless of any dumpsters or anything like that. The Jack and Jill parking benefits them, as opposed to commercial usage. And the access to his property is always block, as evidenced by photos he presented to the Board, which is the legal means to the access to the building and it's continuously occupied by unauthorized vehicles on an on-going basis. Also on Mr. Gatos' property and they're concerned about

increased traffic back there increasing the unauthorized vehicles. He built this property as a mixed use. He's attempted to rent this space as commercial use and unless he gives the unit away, which is what he is doing now, no one wants to go there. There's no visibility to the street, there is all the trash cans and unsightly appeal to the commercial use. All of the issues he was talking about, he says was pointed out by an Industry expert, as evidenced by a letter provided to the Board by Ms. Paula Martel of Century 21, whose office is located in the Down Town District. If anybody has sensativity to the Down Town District, it would be her. Ms. Martel also in that letter is in favor of his proposed variance. She recognizes, as a professional, that it's nearly impossible to rent this space as commercial use for variance reasons; lack of visibility, signage, parking, inter conflicts between tenant and everything else. She also concurred that as a residential use it would be sort after and wouldn't be much of an issue.

Mr. Kogan noted that the Zoning Enforcement Officer indicates in the Staff report that the structure was constructed in 2009; and that he and Chairman Asciola were on the Board when it was presented and considered in 2007. The minutes of that earlier meeting indicate that the applicant at that time was James Towers and asked if Mr. Tanasio acquired the building from Mr. Towers. Mr. Tanasio stated that he and Mr. Towers built the structure together. As a result of the financial crisis at that time, he ended up having to buy Mr. Towers out. Mr. Tanasio confirmed that Mr. Towers was present in 2007, in a joint venture that later became his alone. Mr. Tanasio stated he believes that may be the case.

Mr. Kogan asked when did the property become available for rental. Mr. Tanasio said it was mid to late 2009, 2010. And confirmed that it is now 8 plus years later and

that the first floor has been rented to this same commercial office operator without one rental increase. Mr. Kogan reviewed Mr. Tanasio's testimony in detail, along with the rental history of the property. Mr. Tanasio stated that he has not had any problem with renting out the residential units over the last 8 plus years.

Mr. Kogan asked how Mr. Tanasio has attempted to market those commercial spaces on the first floor. Mr. Tanasio stated, on MLS, Craig's List, his wife is a realtor, he's a realtor and they try to market it. When people realize it's set off the road they don't want to do the type of business that needs a store front. He actually had one guy, under the guise of commercial use try to live in the unit. And then people come in for the commercial use and park in the emergency parking lane and it becomes a nightmare, which is further back behind the property. The photographs of automobiles and the access lanes were reviewed in detail. Mr. Tanasio acknowledged that there are no signs indicated "no parking"; but that it's not his building or land and can't put signs there. He has not attempt to ask the building owner to the south of his property give him permission to put up signs; but to the extent that he would, he strongly believes, as evidenced by Mr. Gatos' letter, that those efforts go unnoticed and ignored. He has not called police to have the cars moved, because he hasn't had the need to, because the residential tenants either just drive over Mr. Gatos' area; and the gentleman on the first floor lives on Hope Street and doesn't drive to work and he tries to avoid any annoyance to his other neighbors.

Mr. Kogan noted that the building has not changed since 2007 and that the issues were pretty predictable in 2007 when Mr. Towers was seeking approval to fit an extra dwelling unit above and do this project with commercial on the first floor. The location

hasn't changed and he recalls part of the motivation of this was that this was a historic property and that its desired to keep a historic property from disappearing, because it was dilapidated at the time. He recognizes that a lot of effort and money has gone into this property, but a lot of the issues that Mr. Tanasio is concerned about have always been appended to this particular location. Mr. Tanasio stated that he has attempted to comply, but can't afford the present tenant.

Ms. Diane Williamson stated that based on what she heard she would like to add that she did do a site visit on this property and she thinks that there are other properties in this vicinity that really seem ripe for redevelopment. She thinks that the commercial nature of their businesses is something to consider and she thinks that the increased commercial that may be developing in the near future may help this applicant. They have been promoting pedestrian walkways and pedestrian accessibility down town, because it's just a perfect grid for walking and there's lots of on-street parking. This is one of these places where you could see it becoming where somebody wants to go down and look at more shops down an alleyway. She thinks the parking is an issue, but she thinks it would be more so for residential. She thinks a lot of the things testified to about the commercial impacts would be the exact same problem for residential, if not more so. Another interesting thing she was noticing while looking at the pictures in the packet, that the pictures seem to be taken from the sidewalk and there's no signage on the buildings. If you could look at the building and put a sign to direct people in. If you really want to market this, there are definitely ways to encourage it and invite people in to get to that building.

Mr. Tanasio stated that he doesn't own the walkways, either one of them, they are private rights-of-way, with liability attached to them. Ms. Williamson stated that she doesn't believe there's any prohibition of anyone walking down that alley way. Mr. Tanasio stated that he also cannot put signs on a building that he doesn't own, the one in front. Mr. Kogan stated that Mr. Tanasio stated earlier that he hasn't approached the owner of 39 State Street to see if he could get permission to put directional signs, or no parking signs. Mr. Tanasio asked what would be in it for them to increase the liability. And personally, he doesn't completely get along with that owner because of parking issues. And none of the other issues he spoke about earlier are not going to go away.

Ms. Williamson stated that she more inclined to put a sign on the applicant's property; the sign on the abutting property was sort of a process that she got to when she looked at the alley way. She does think there is opportunity and one can plainly see this building from the sidewalk, as evidenced in the photographs.

Mr. Tanasio stated that in order to do that, the commercial tenant would be taking a big risk; they have to invest in moving, in signage, they're taking a big risk when they move a business. When potential renters see the situation in being set back, they just don't want to invest.

Mr. Stephen Brigidi, 93 Highland Road, stated that he is an experienced commercial property owner. He was also a witness to this property being renovated from a blighted property to what it is today, when he was on the HDC. Mr. Tanasio has made a significant investment and a contribution to the community from what he's done to the property. For 18 years he's owned commercial property and has been fortunate with his original building because of its location on Thames and Franklin. In 2005 he acquired a

building on Bradford Street. He had that building for 10 years, all commercial, and he was basically struggling with it, they couldn't find commercial tenant. He agrees with Ms. Williamson that it's wonderful to have commercial property; but Bristol is a tough sell and only certain commercial properties can work. It has a lot to do with location; street front and retail. There have been some success, but they now have vacancies that can't be filled for going on two years. There's vacancies at the hotel and others throughout town. They were able to sell at a huge loss their commercial property on Bradford Street and the new owner has asked for his assistance in getting the first floor rented. The resolution was that the space was divided into four offices; it's fully occupied now, but at greatly reduced market rate rents. He hears what Mr. Tanasio is saying and he's very sympathetic to his cause. He knows there's a reluctance to do these kind of conversion from two to three units and to give up commercial space; but he would urge the Board to really consider the request by this applicant, because of this very unusual unique situation.

Mr. Steven DeLeo, Federal Property and Rocket Realty LLC, both of which are abutters to this property, stated that he owns the subject easement area, which is adjacent to this property. They also own the Brunelli building. Contrary to what the applicant has said, they are getting calls all the time for space along that alley way. In fact just last week he showed it to two different artists and a pizza restaurant that's interested in moving back there. As Diane mentioned, this is a critical central core of Down Town Bristol and it's important to keep that lively and active to commercial and professional uses. They want to encourage pedestrian access along that ten foot strip that they have. Traffic issues that are there are not caused by them. As a matter of fact, on a number of

occasions Mr. Tanasio's tenants are the ones that are parking there for the day. They all work cooperatively down there, and he was a little disappointed to hear that Mr. Tanasio and him don't get along. They hadn't met until tonight, and still haven't met. But, the only issue was when Mr. Tanasio asked him to sign a letter that apparently the Gatos' have now signed. He had a number of issues with signing that letter, and that was the only issue they have ever had. Otherwise, everyone works together; they even paved a portion of Mr. Tanasio's property at their expense. This is a 2,500 square foot lot and he thinks that the number of dwelling units by land area, under the zoning ordinance, is 2,500 per unit. They already have two units on there, which was granted by variance. And there's commercial space, which is occupied and has been occupied; he's talked to that tenant. Now they're looking for a third unit on a 2,500 square foot lot and he hasn't heard any hardship by the applicant, other than one that really goes to increasing the profitability of that property. And he doesn't think that's a proper basis for this Board granting a hardship to this property. As far as the parking and the use; he thinks for the residential use on the first floor there would be increased parking issues. They've already got a number of dumpsters back there and he really doesn't think that it's an appropriate use to subject that first floor to residential use. He has concerns over the parking that the residential use is going to bring to that space. Even though there may not be parking set aside in the Down Town Zone, it's inevitable that there are going to be cars associated with each unit; and there are already two units on that property. He can also see a situation where at least one of the uses that they're considering for the Brunelli building, really wouldn't be compatible with another residential unit in that space. He doesn't think it's appropriate for this property and an additional variance for this property to put in a

residential unit there to negatively impact their marketing efforts for the potential uses. On that basis he reluctantly object and he says reluctantly, because they all need to work together in the Down Town and hope they can do that.

Mr. Kogan reviewed the right-of-way with Mr. DeLeo in detail and the situations experienced as depicted in the photographs. Mr. DeLeo explained that they did put up signs in 2016 when they first acquired the property and someone took them down. But it really hasn't been an issue for all of the property owners in the back; they all sort of work together; there's kind of a pattern to the use. In response to Mr. Kogan noting Mr. Tanasio's testimony about the lack of awareness that the public may have that there is commercial operations in his building and Ms. Williamson suggest that someone put much more visible signage, or actually any signage on 39R to attract people back there; and Mr. Kogan's question on putting signage on 39 Front; Mr. DeLeo stated that it would be something that he would consider doing on appropriate terms. He hasn't been approached with any such request. Mr. DeLeo stated that he would also like to add to that is that some of the appeal for that back space is the fact that it's kind of tucked away and very consistent with the future pedestrian walkway that they would like to develop in the future. He certainly doesn't want to see Mr. Tanasio fail, because the success of his property leads to the success of others. He stated that at his property at 495 Hope Street, they also provide internet service, heat and electricity, it's all in the rental package.

Mr. Tanasio stated that 39 State Street, 495 Hope Street, they're all on a main road, they're not set back, they don't have visibility problems whatsoever. The last time he saw the space off-street was more of a garage warehouse; more of a workshop than anything else, and not necessarily retail. With respect to the access and the cooperation,

Mr. DeLeo clearly states that signs have been ripped off and that the easement area is constantly blocked. He indicates that people at 495 Hope access the easement area to access their building and that may be true, but what he failed to mention is that they also have access from Thames Street; so when the easement is blocked, they can access from Thames Street, he cannot. He has access only through Mr. Gatos' land and the liabilities that are put on Mr. Gatos. With respect to putting signage on Mr. DeLeo's building, he would assume that those terms would be money. He wanted the Board to know that they have had negotiations on buy-outs; the lesser the demand, the cheaper the price. Mr. DeLeo has already bought out multiple buildings in the area, and this would only add to his collection. Again, there are unique aspects to his property in relation to everybody else's, including Mr. DeLeo's.

Mr. Kogan stated that he didn't see where he could support granting further relief for this property. He was on the Board when this came before the Board originally. This is a very small lot, 2500 square feet. There was a lot of concerns 10 years ago about the density for residential use; the code does require 2,500 square feet per dwelling unit. They allowed two dwelling units, plus the commercial in a very small property with almost no off-street parking. The testimony at this hearing was that Mr. Tanasio was part of the original development of this property; so if there is a hardship, in part it's a result of prior action in coming to the Board and trying to salvage that location back there. And the justification was largely financial. Not that it's different than it was ten years ago, it's the same as it was ten years ago. And that the expectation hasn't quite worked out financially, but you also have to look and say that he hasn't made all of the efforts he might make to promote the property. And it's apparently not impossible to work

something out to put signage for back there. He's very concerned about the Comprehensive Plan looking to have the Down Town District be mixed used; and this seems inconsistent with the Comprehensive Plan.

Mr. Kern stated that he agreed. They've heard description of a lot of roadblocks to the success and he sympathizes with those. But he didn't see anything new that's occurred over the last 8 or 9 years that wasn't there when the property was developed.

Mr. Asciola stated that with Mr. Tanasio actually being part of the development, he actually created the situation; and in the zoning there are standards that have to be met.

Mr. Burke stated that the fact that the footprint had to be used, there's no room for more footprint; it completely covers the lot.

The Board continued their discussion about the history of the property in detail.

Mr. Edward Tanner stated that to clarify, this property is located in the Down Town Zoning District. That's different from the Down Town, which includes waterfront. The Down Town Zoning District is a mixed use zone that allows commercial and residential. There's nothing in the Zoning Ordinance or the Comprehensive Plan that says he must have commercial space on the first floor. What the Zoning Ordinance says is lot area per dwelling unit. This Board approved that house with two residential dwelling units. Nothing says you have to have commercial on the first floor. That's the way it came to the Town, with commercial on the first floor. So, in theory he could fill that building with two dwelling units. He could knock down walls and make two big dwelling units in there with just a building permit. It's the third dwelling unit that causes the need for the variance; it's not the elimination of the commercial.

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MR. ASCIOLA: Can I have a motion from the Board, please.

MR. KOGAN: I'm going to make a motion that the application for variance seeking a dimensional variance with regard to required lot area per dwelling unit, in order to convert the existing mixed use structure containing two residential units into a three-family residential dwelling be denied. The reasons for the denial are that there may be a hardship in connection with this property. There's certainly unique, as testified to by the applicant, and as re-enforced by the realtor's letter. However, that hardship does not arise just from the unique characteristics of the subject land; it also arises from prior action of the applicant to make an investment into this property ten years ago. Or at least seek relief from this Board ten years ago, to take what they, at that time, the proposal to take it over and do the development that they wanted, which now puts them in the position of they developed out this property and the residential units that were permitted in a substandard lot, a 2,500 square foot lot, for which they got relief ten years ago has produced certain financial hardship. Not a hardship that's different from the hardship that existed ten years ago when they got the first round of relief from the Board. That economic hardship could very well be ameliorated based upon the applicant rethinking his economic plan. Rethinking how the commercial space, if he wishes to continue as commercial space, is marketed. Seeking accommodations from the neighbors about keeping the right-of-way open, signage, cooperative

efforts to keep the access open. All of which doesn't sound like the applicant has explored to any great extent. The area would be altered, I think, significantly by continuing to load into the residential units in a very congested area where there are already parking problems. And it is true that the Down Town District does not require off-street parking for residential units, but the Down Town District is very congested with parked cars for all sorts of reasons. And thinking about adding another dwelling unit in this narrow back area just would exasperate whatever the current problems are. The applicant is painting a picture of it has not been financially successful. And that's the hardship that we're dealing with. Not that there is some hardship arising from other unique characteristics here. And I think that it may be inconvenient to think about other ways to market the property. It may be inconvenient to think about changing it into the two bigger family units that Mr. Tanner suggested. But it is not such a hardship that would justify allowing three dwelling units that would normally require 2,500 square feet per unit, for a total of 7,500 square feet on a 2,500 square foot parcel, with what looks like two off-street parking spaces; at least two regular off-street parking spaces; even if you can cram another car or two in there. Apartments Down Town, people have cars. Most families that rent have two cars; so that's six car spaces that would be looking to park back there. It just seems like that is overloading that area. So, I don't believe the Standards have satisfied, and for that reason I move that we deny this variance.

05 FEBRUARY 2018

MR. KERN: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Denied)

NEW PETITIONS:

3. 2018-02

JOHN R., JR. and BETH A. COCCIO

**5 Milford St.: R-10
Pl. 43 - Lot 25**

Dimensional variance to construct a 26' x 30' accessory garage structure at a size larger than permitted in a residential zoning district.

Mr. John Coccio presented the Petition to the Board. Mr. Coccio explained that his reasons for requesting the variance is that his biggest problem is that there are several cars that he owns; four of them are antiques. He does rent two garage spaces for two of them and he'd like to bring everything on property. Of the ones that are every day vehicles, he's had to utilize his front lawn to park the car and especially when there's snow, the road itself is fairly narrow. He showed the Board a photo of the roadway with his truck parked in front of his property and explained it in detail to the Board. He believes that the original plan for the road is it should be 25 feet wide, but it really is only about 17 feet wide at present. He explained in detail how he parks his vehicles and how he has been ticketed in the past for parking on the street. He detailed the location off a google map and plat map on where he proposes to place the structure. The lot measures 80' x 215' and believes there is plenty of setback from the front, back and the sides. The yard is fenced in with a 6-foot fence. The steel building he is proposing will be put on a foundation with a height of only about 15 feet high. He looked into pre-fab wooden garages, that would be a little bit higher, with a foot print of only 24' x 30'.

The Board expressed concern that no actual site plan was supplied with the application. Mr. Coccio detailed his property lines to the Board. The Board did view his application in detail, which showed a number of improvements already on the property,

including the house, a pool, another 12' x 16' shed and a sewer easement on the property. Mr. Kogan noted that with all of the existing structures and such on the property that it would be difficult for the Board to figure out how the proposed addition would fit on to the lot without dimensions indicating the location of the other structures, where Mr. Coccio proposes to put the new structure; whether it is the 26' x 30' or the 24' x 30', and believes that some kind of a site plan to be submitted. Mr. Tipton asked that perhaps Mr. Coccio could also supply a photograph of what the proposed building might look like.

Mr. Asciola read a letter from abutting property owners, stated that they have no objection to the footprint of the building; however they do have some objections to a 16 foot height and the industrial look of the structure squarely in their tenants backyard at 98-95 DeWolf Avenue and have a negative visual impact on the nature of the neighborhood.

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MR. KOGAN: I'm going to make a motion that we continue this hearing for one month to give Mr. Coccio an opportunity to prepare a more detailed site plan with distances and indicating all the current improvements are and where he I have a disclosure that I won't be here for the next meeting. Since we don't have anybody else here, you'd have to go through the testimony again. So, if we do it a month after that, if that's okay with the applicant.

MR. COCCIO: That's fine, I'm not in a rush.

MR. KOGAN: So, continue until the April meeting.

MR. TIPTON: Second.

MR. ASCIOLA: All in favor?

05 FEBRUARY 2018

MR. BURKE: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTIONS WERE UNANIMOUSLY APPROVED)

(Petition Continued to April)

After the motion was passed, Mr. John Brandao from 6 Milford Street asked to be heard. He grew up on Milford Street, he seen John grow up there and they're a great neighbors, they get along, they help each other out. Over the time the families grow, children begin to drive, they get their own vehicles. Milford Street is a tight street. When Santa Claus came up Milford Street on the fire truck and the fire truck had a hard time coming up Milford Street with the vehicles in the street. They all have driveways, but John kind of exceeded his driveways, so he parks on the grass. He did have a nice lush green lawn when he acquired the property from his parents; and now it's all cars and trucks on the lawns. It would be nice to see green lawn again in front of John's house. So, it would be great to see if this variance is granted for John.

**4. 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.

After calling the next Petition to be heard, no one was present. Ms. Goins advised the Board that out of courtesy to the applicant, the matter be continued for one month.

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MR. BURKE: I make a motion to continue application 2018-03, 36 Division Street, to the March meeting.

MR. KERN: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued to March)

**5. 2018-04
JOSEPH P. and SHEILA J. CURRAN**

**91 Highland Rd.: R-20
Pl. 69 - Lot 26**

Dimensional variance to demolish an existing single-family dwelling and construct a new 3,516 square foot single-family dwelling in generally the same footprint as existing and with less than the required side yard.

Mr. Dave Rizzolo, 30 Clarke Rd., Barrington, RI and Mr. David Andreozzi, Architect, 38 Highland Rd., Bristol, RI, presented the Petition to the Board.

Mr. Rizzolo explained that they were before the Board a year ago and was granted a variance for an expansion to this small house. They proceeded, they did their drawings, their due diligence, they started construction and like a lot of projects they ran into some problems. Many of them were problems they anticipated, some of them weren't. The problem that led them back before the Board, is that when they started the excavation for the addition, they found that the house, which is on a rubble foundation, which they knew, has a rubble foundation that is at the most 18" below grade and at the worse about 16" below grade; well less than what's required by today's code and is creating a serious risk for the home owners. They are proposing is that there is part of the existing house that was built on a normal concrete foundation. They'd like to leave that and then severe off the rest of the house and build back a new house that meets all of today's codes and standards and frost depths, in the spirit of the house that was there before. It's a little bit bigger, a little bit taller, but it's in the same spirit as what was there before. Some of the unique aspect of what they are dealing with are that there is no frontage to this lot; it's all side yards. But, there is an easement over the property to get to one of the neighbor's property that does act like a road and does seem to indicate from a neighborhood

standpoint a front yard. So, they would like to respect that sense of front yard and respect the piece of house that they're keeping; and that's really pinning them as to where the original footprint was. So, their new footprint fairly closely matches the existing footprint. So, both, they are matching the spirit of the house and original approximate location of the house. Which means they need the same variance that they came to the Board for a year ago on that southern property line; they are too close to it to meet the ordinance and need a variance from that.

The Board reviewed the application in detail with the applicants. Mr. Rizzolo detailed the plans submitted, indicating that the red section on the new plans is the area that would need a variance. Mr. Kogan asked that if when they came before the Board a year ago, it was about reconstructing an existing structure; there was a small addition. The existing structure was already non-conforming by dimension. Taking into account Mr. Tanner's interpretation that there is no front yard and back yard, because there's no frontage, and therefore there was just all side yards, which in an R-20 zone have to be 20 feet from the property line. So, demolishing an existing structure and rebuilding a new structure is an entirely different idea than remodeling and restoring an existing structure and getting a little tiny bit of a bump out; he didn't understand why if they are demolishing and building a whole new foundation, why the new construction cannot conform to the 20 foot setbacks. There is a drawing that they were referred to that indicates the legal building envelope and if the plan is to demolish, why are they asking for any relief. Why not just build something that completely conforms.

Mr. Rizzolo stated it was a very good question and that there are two pieces to the answer. First is the more obvious one, is they're keeping a portion of the house and they

don't want to create an oddball condition where they're askew and they don't look good. The other is that if they build up to the setback line that they are allowed to, they'd be right up to the right-of-way, which does feel like a front yard.

Mr. Kogan noted that they could build one that is longer and deeper east to west. If it has to be demolished and a new structure built, it's a completely clean slate. If you have non-conformity and you demolish it, then you have to come into conformity, under the non-conforming use requirements, a non-conforming by dimension requirements of the code.

Mr. Andreozzi stated that this was worked on with at least the two immediate neighbors and the owners and, with respect to preserving that front yard and pushing things back, and not pushing things to the west; so if the overall goal was to recreate the approximate original scale of the cottage as it was. They unfortunately came into a situation where they lost a huge amount of design in the middle of construction, and a huge amount of money. Because not only is the existing foundation inadequate, but all of the framing was inadequate as well. He definitely sees where Mr. Kogan was coming from, why not make it longitudinal and keep it within the lines; he can also make it 35 feet high; but all of those things are not what would be their first goal, which is to maintain that front yard with respect to the neighbors. Keep the approximate same scale of the house. Although they did bring it up about 4 feet or so, for the obvious reasons that the current first floor is 7'4" and you have an HVAC system, so they're trying to get a little bit more height out of it. But one can see that the approximate scale is the same.

Mr. Kogan reviewed 28-219(p) in the code, which is dealing with non-conforming by dimension, which deals with voluntary demolition versus involuntary

demolition and asked if he considered this an involuntary demolition, destruction or damage. Mr. Tanner stated that would be a finding that the Board would have to make. Mr. Asciola stated that he does believe it to be involuntary, they didn't want to take down the house, the structure has been deemed unsafe by code. Ms. Goins stated that the Board has to consider demolition, destruction or damage as a group; if you read it it says involuntarily demolished, destroyed or damaged; involuntarily has to modify it. There was detailed discussion on the review of 28-219.

Mr. Andreozzi explained that the new proposal is actually less of a variance than the previous approved variance; he approached the bench and pointed it out to the Board on the plans.

Ms. Shiela Curran, owner of the property, presently living at 232 Tabor Avenue, Providence, RI, upon questioning by Mr. Kogan, explained that the reason they bought the house in the first place was because they loved the neighborhood, they loved the style of the neighborhood and they particularly liked the style of this house. They want to be able to keep it exactly, or very similar to what is currently there, because that's the reason they bought the house in the first place. One of the reasons that they want to do what they are doing right now is because they've talked to their neighbors, who are present and who support their plan. They've tried to do everything possible to make it seem as though it's the exact same house, even though it would be essentially a new house. She thinks they would cause more difficulties if they went to the west side, because that would then encroach much further towards the Brididi's side of things. They have taken away the bump out from the previous variance that was granted, because they want to make it as easy as possible and make sure that they have the least adverse effect on the

neighbors. And essentially, they could build a two-story house that would be much, much larger; but they don't want to do that, because they need to make sure that they are good neighbors all around; that the design is very much in keeping with the whole neighborhood. She's seen what's happened in the Bristol Highlands with other houses that are being built there and they have not been necessarily the same style and that has had a really deteriorous effect on the neighbors. They've owned the house for over a year, they would really like to be in there, it's costing them an awful lot of time and money to do this. They were absolutely devastated when they were not able to go forward with the original plans. They need to be able to have enough space to be able to, for example, put in a stairway that is code compliant, and which will allow them to get a double bed upstairs.

Mr. Stephen Brigidi, 93 Highland Road, stated that he and his wife are direct abutters to this property. They are in total favor of the new proposal. It is a second round, but the Currans came to them with all the details from day one and also with the neighbors to the south. He has been there for 11 years and what drew them to the neighborhood was the simplicity of the cottages, the bungalows, the beach houses, the character, the beauty was just simple. What's happened on Dana Road, just a few feet from them, just doesn't belong even though they had the ability to do what they did, but it's altered the character. So along come the Currans and they want to keep the tradition and the character and they couldn't be more pleased. The new plans respects the integrity of the neighborhood. He would really have a problem if it was a proposed 35 foot building. But the Currans are sensitive to the land, the community and they're anxious to get here.

Mr. Russ Lundstrom and Sharon Swenson, fiancé, 110 Highland Road, due east of this property stated that his mother died last month so he inherited the property. Neither he or his mother were consulted about this renovation until a month ago. He likes the idea of keeping the character of the house and all that, but it's going to adversely effect him, because the height of it is going up 4 1/2 feet and will block a lot of his water view. Mr. Lundstrom presented pictures to the Board to help them understand the views that he is concerned about. Ms. Swenson presented the pictures and explained them in detail to the Board, showing the view being disrupted and decrease the value of the house; and that he is paying taxes on seasonal water view. Mr. Asciola asked if they realize that the Currans can legally build up to 35 feet high. Ms. Swenson stated that they were aware of that.

Ms. Morgan Lewis, 87 Highland Rd, stated that her husband sent in a letter two weeks prior, which seems not to have made it into the record. She stated that they are fine with what the Currans would like to do. They appreciate how they have worked with the architects with keeping with the nature of the neighborhood with the original design and now the new design. She understands what has gone on with the property physically and knowing the house pretty well is not surprised by what they ran into. They are in support of the plan and appreciate all their efforts.

Mr. Asciola stated that because of the structural damage, he believes it is a involuntary demo and if they are made to put it into the building envelope it may cause even disruption in the neighborhood.

Mr. Burke stated that based on this situation, he believes it is involuntary. The issue is whether they grant a variance or do they require them to rebuild it as is. He

doesn't think it's the fault of the applicants and this is a situation where he thinks the Board could provide relief.

Mr. Kern and Mr. Tipton both stated their support with the majority that this is an involuntary demolition.

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MR. BURKE: I'll make a motion to approve this application for a 10 foot variance to the south side side yard for the shaded in area on the drawing designated A-1, for the following reasons. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, or to an economic disability on the part of the applicant. As far as the footprint goes, they're recreating the existing house. This application has been resubmitted due to the unbuildable, or unrecoverable condition of the current structure. The hardship is not the result of prior action of the applicant and does not result primarily from a desire of the applicant to realize greater financial gain. We've heard testimony tonight and I do have some experience with doing projects like this or knowing people that do them, and they're certainly spending a lot more money than they had planned to rebuild this versus renovating. 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 and the Comprehensive Plan in the Town of Bristol. This is a residential area. Many, if not the majority of the homes there have been updated or

renovated. It was initially a summer colony and almost all of the homes there have been renovated and converted to year round use. The relief requested to be granted is the least relief necessary. Basically we're allowing the same, or almost identical relief that they did on the initial application. The hardship that would be suffered by the owner of the subject property, if this variance is not granted, would amount to more than a mere inconvenience. As far as the planning goes, in fact it would inconvenience, I believe, the entire neighborhood, based on the delays in construction that would occur if it is not granted. That is my motion.

- MR. TIPTON: I second it.
- MR. ASCIOLA: All in favor?
- MR. BURKE: Aye.
- MR. TIPTON: Aye.
- MR. ASCIOLA: Aye.
- MR. KERN: Aye.
- MR. ASCIOLA: Opposed?
- MR. KOGAN: Aye, I'm opposed.

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(THE MOTION PASSED 4 - 1)

(Petition Granted)

6. ADJOURNMENT:

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

MR. TIPTON: Second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

MR. KOGAN: Aye.

MR. KERN: Aye.

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(THE MOTIONS WERE UNANIMOUSLY APPROVED)

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

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

05 FEBRUARY 2018

RESPECTFULLY SUBMITTED,

Susan E. Andrade

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

Date Accepted: _____

Chairman: _____