

BRISTOL
ZONING BOARD OF ADJUSTMENT
February 5, 2019

APPROVED as amended:

See minutes of _3/5/19_jrl_____

AGENDA: 18VAR05 VARIANCE: ARTHUR CESTARO, 80 Prospect St., #115-049
 18VAR04, VARIANCE: J. P. JR. & ELIZABETH MORRISON, 26 Meadow Lane, #223-086
 18VAR06 VARIANCE: JESSE KROPELNICKI, 55 Holiday Hills Drive, #110-028

ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Lorraine Bohmiller,
 Melody Mansur (alternate)

ABSENT: Larry Denton, Ashley Dolloff

OTHER: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), applicants and public

The meeting opened at 6:08p.m. Ms. Mansur was named to sit in for Larry Denton. Mr. DeStefano explained to Mr. Kropelnicki that Ms. Bohmiller will step down for his case and that with only 3 members of the Board present, all 3 must agree or the case is automatically denied. Mr. Kropelnicki has the choice to continue with just 3 or to wait until the next scheduled hearing date.

18VAR05 CONTINUED VARIANCE FOR J. P. JR. & ELIZABETH MORRISON

Mr. DeStefano explained what had previously happened with this case and stated that the town was to look into the history of the property. Mr. DeStefano then read the history that was researched. It was found that mobile homes have never been allowed there. Mobile homes were only permitted in the Rural District.

L. Bohmiller made a MOTION, second by R. LaFlamme, that HARDSHIP HAD NOT BEEN MET. The motion CARRIED. R. LaFlamme made a MOTION, second by L. Bohmiller, to DENY THE VARIANCE. The motion CARRIED.

Mr. DeStefano explained that they have 30 days to appeal and the Notice of Decision was signed.

18VAR05 VARIANCE: ARTHUR CESTARO

Ms. Laferriere read the application, the list of those notified, where the case was noticed, and stated that there were no written or telephone requests for this case. The Water/Sewer Dept. and Fire Dept. will need the applicant to see them if the Variance is allowed.

The Board looked through what was submitted.

L. Bohmiller made a MOTION, second by R. LaFlamme, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

CESTARO VARIANCE continued:

Mr. Cestaro stated that he bought the property with 4 apartments, though one tenant had left and the owners used it for storage. He wants to put it back to 4 apartments. Mr. DeStefano asked how long it has been used for storage and Mrs. Cestaro answered that it has been about 2 years.

The criteria for a Variance was then addressed:

1. Not contrary to the Public interest: Mr. Cestaro stated that there is adequate space and it was previously used for an apartment. When they bought the property, they were told that they could use it as a 4th apartment.
2. Spirit of the Ordinance: The mortgage and taxes have increased and they have had several thousand dollars in repairs. They would like this to help pay for this.
3. Substantial Justice: They were told that they could rent the space.
4. Surrounding property values would not be diminished: Nothing will change on the outside other than what the Water/Sewer Dept. wants. Mr. DeStefano and Ms. Mansur are both in Real Estate and explained that this would diminish surrounding property values.
5. Hardship: The Cestaro's have always paid to fix the property and now it is too costly. The change is only interior.

Mr. DeStefano asked for questions from the Board. Ms. Goodwin stated that currently they have 3 apartments and have lost the grandfather clause on the property at this time. Mr. DeStefano thought that they may not have enough square footage, also. As there was no clear delineation in the Ordinance for this case, Mr. DeStefano used Commercial Requirements. He figured that they do not have enough square footage to add. This is already a non-conforming use and the Board is not to make a property more non-conforming.

Mr. DeStefano asked for public input. Leonard Hoyle, across the street, stated that parking there is already a problem. Mr. Cestaro stated that they have a side area which will have gravel. Mr. DeStefano said that parking is up to the Planning Board in a Site Plan. Margaret Hoyle added that in 1966 it was a 2-family and then changed to 1 followed by 2 again in the early 90's. They made a loft over the barn to be used by their son. She mentioned that the property is not maintained well now. It is grandfathered for 3 and only 2 are allowed. It is wrong to turn it into more.

Mrs. Cestaro stated that they have had a lot of trouble with it. They would have sold it, but the value came down and they would have lost money. There have been problems with some tenants. The Cestaro's pay for the lawn to be cut.

Mr. DeStefano stated that beautification of the property is not under the Boards purview; they must follow the criteria. Financial consideration cannot be counted either. At this time, he closed the public hearing.

CESTARO VARIANCE continued:

The Board addressed the criteria as presented:

1. Public Interest: R. LaFlamme made a MOTION, second by L. Bohmiller, that PUBLIC INTEREST WAS NOT MET. Ms. Bohmiller that financial was mentioned and Mr. DeStefano felt that multi-family buildings were not allowed in the district for a reason. The motion CARRIED.
2. Spirit of the Ordinance: R. LaFlamme made a MOTION, second by L. Bohmiller, THAT IT DOES NOT MEET THE SPIRIT AS IT IS ALREADY NON-CCONFORMING. The motion CARRIED.
3. Substantial Justice: L. Bohmiller made a MOTION, second by R. LaFlamme, that THIS CRITERIA WAS NOT MET. Ms. Mansur stated that she feels bad for the applicants but does not feel that meet this criterion. The motion CARRIED.
4. Values to surrounding properties: Ms. Mansur felt that we don't know, and Mr. DeStefano stated that, as being in Real Estate, he does know that it will diminish them. R. LaFlamme made a MOTION, second by M. Mansur, to PASS OVER THIS CRITERIA. The motion CARRIED with one opposed.
5. Hardship: Ms. Mansur stated that they presented the hardship as financial. Mr. DeStefano said that only items in the Zoning Ordinance can cause hardship. M. Mansur made a MOTION, second by L. Bohmiller, that THE HARDSHIP CRITERIA WAS NOT MET. The motion CARRIED.

R. LaFlamme made a MOTION, second by L. Bohmiller, to DENY THE VARIANCE FOR CESTARO. The motion CARRIED.

Mr. DeStefano stated that they have 30 days to appeal and signed the Notice of Decision.

18VAR06 JESSE KROPELNICKI

Ms. Laferriere read the application, who was notified of the hearing, and where it was advertised. She stated that there were no telephone calls received but one written correspondence was received. There were no comments from Department Heads. Ms. Bohmiller stepped down as she is a neighbor.

Mr. Kropelnicki stated that he put in the shed for his use and for his and neighborhood kids to use. He didn't realize that he needed a permit for this. It is customary to put sheds in a corner and many sheds around are on the boundary line. Moving the shed out of the setback would not allow good use of the yard. Folks behind him walk through the area on their way to the beach. The shed would impede their path if moved. The abutters most affected by this have no problem with it.

The criteria were looked at:

1. Public Interest – Mr. Kropelnicki stated that it is wooded back there, and the shed does not block any views. The abutters on those sides are okay with it. There is a pass-through for the neighbors. Mr. DeStefano asked if it is deeded and was told that it is not.
2. Spirit of the Ordinance – It is close to the 15' setback already and is wooded.
3. Substantial Justice – He allows the kids and neighbor kids to use it and allows the path through the yard.
4. Surrounding Values – There is no impact on the neighbors and the shed matches the house.

KROPELNICKI VARIANCE continued:

5. Hardship – It is wooded and does not block anyone's view. It is 10' x 18' and used for play. It is the best use of the yard. Moving it forward would cover some of the septic and most of the patio. The fire pit would have to be removed and the pass through would be impeded.

Ms. Mansur, new member to the Board, asked if we can do this and Mr. DeStefano state we could if they meet the criteria.

Mr. DeStefano asked for public input. Robert Frost, abutter, stated that he has the empty lot and has no objection. Floyd Frost stated that they might have a problem themselves if they try to build. Ms. Bohmiller had no problem with the shed. Ms. Levesque, abutter, had submitted a letter opposed and it was read.

Public input was then closed, and the criteria was discussed.

1. Public Interest – M. Mansur made a MOTION, second by A. DeStefano, to ALLOW THAT PUBLIC INTEREST HAS BEEN MET. The motion CARRIED.
2. Spirit of the Ordinance – R. LaFlamme made a MOTION, second by M. Mansur, that SPIRIT OF THE ORDINANCE HAD BEEN MET. The motion CARRIED.
3. Substantial Justice - R. LaFlamme made a MOTION, second by M. Mansur, that SUBSTANTIAL JUSTICE HAD BEEN MET. The motion CARRIED. Mr. DeStefano mentioned that the pass through is not an easement and having a place to play is not a reason.
4. Property Values – M. Mansur made a Motion, second by R. LaFlamme, that PROPERTY VALUES WILL NOT BE DIMINISHED SO THIS HAS BEEN MET. The motion CARRIED.
5. Hardship – A. DeStefano made a MOTION, second by M. Mansur, that PART A HARDSHIP WAS NOT MET. Mr. DeStefano stated that he created his own hardship when he put in the patio and fire pit. The motion CARRIED. Mr. DeStefano made a MOTION, second by R. LaFlamme, that PART B HARDSHIP HAD NOT BEEN MET. The motion CARRIED. Again, due to having created his own hardship.

R. LaFlamme made a MOTION, second by M. Mansur, to DENY THE VARIANCE FOR KROPELNICKI. The motion CARRIED. Mr. DeStefano stated that there is a 30-day appeal period and the Notice of Decision was signed.

MINUTES OF DECEMBER 4, 2018:

R. LaFlamme made a motion, second by M. Mansur, to approve the minutes as read. The motion carried.

OTHER:

A discussion was held as to how a person with a shed could get a Variance. Ms. Goodwin asked if these cases now go for an Appeal or for a Motion for Rehearing. It was explained that they would apply for a Motion for Rehearing as only the Court can hear an Appeal to the Zoning Board.

With no other business before the Board, the meeting adjourned at 7:45pm.

Respectfully submitted,

Jan Laferriere, Land Use Admin. Assistant