

BRISTOL  
ZONING BOARD OF ADJUSTMENT  
May 7, 2019

**APPROVED:**

**See minutes of 6/4/19 \_\_jrl\_\_\_\_\_**

AGENDA:        19VAR01 VARIANCE: MARIO MENARD, 140 Batten Road, #102-047  
                  19VAR02 VARIANCE: PHILIP SAUSVILLE, 30 Church St., #114-135

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

ABSENT:        Ashley Dolloff (Alternate)

OTHER:         Christina Goodwin (Land Use Manager), applicants

Meeting opened at 6:01pm.

MINUTES OF APRIL 2, 2019:

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

19VAR01 VARIANCE: MARIO MENARD

Ms. Laferriere read the application, the abutters notified, and where the hearing was noticed. She added that she received no telephone calls, written correspondence or Dept. Head comments pertaining to this case.

L. Bohmiller made a MOTION, second by L. Denton, that the application was complete. The motion CARRIED.

Mr. Menard stated that, in 2011, he had come in for a PCC about putting an apartment over a garage for now and later to build a home. He was advised that he would need a Variance, if the home was not attached to the garage as the garage would be higher than what is allowed. The Planning Board could not guarantee that they would be able to get the Variance when they did build. Mr. Menard stated that the topography is not conducive to attaching the home as there are boulders and mature trees in that area. He added that it would not affect any of the neighbors' view. Mrs. Menard said that it would only affect Carol DuBrule and she presented an e-mail from Ms. DuBrule which was in favor of the build.

Mr. DeStefano asked how the apartment is set up. Mr. Menard answered that there is a small kitchen and a tiny bathroom with just a shower stall. Mr. Denton asked what they use it for and was told that they used it to stay in when they came up and now want to move up full time. Mr. DeStefano asked about the dormers and was told that they were put in for light. Ms. Goodwin explained that they will eliminate the kitchen if the Variance goes through. Mr. Denton asked about the photos submitted which show only woods on the neighboring properties. Mr. Menard said that this is a wooded area. He added that the house is higher than the garage and will be about 20' away from it.

MENARD VARIANCE continued:

The Criteria was then looked at:

1. Not contrary to Public Interest = it does not block or obstruct any of the abutters' view. The reason for keeping the 23' height is to accommodate storage of their boat in winter months and to provide storage and a bonus room above the garage. Storage will allow items to be out of the way and out of view.
2. Will not affect the Spirit of the Ordinance = Would not affect the spirit as the house will be higher and the topography is also higher where the house will be built.
3. Substantial Justice = Will allow the Menard's to become full time residents and it will not affect abutters or the public in a negative way.
4. Values of Surrounding Properties = It will increase values by having a full-time house there instead of just a garage.
5. Unnecessary Hardship = a. No fair and substantial relationship exists between the general public purposes of the ordinance provision: Will not negatively affect the neighbors but will increase the esthetics of our property by allowing storage of the boat and other items out of view. The use is reasonable as it will allow them to have a permanent forever home. It cannot be attached to the house due to topography. Attaching a deck or porch is not an option. It would not allow the building of the permanent home and store their boat and other items. b. Distinguishing it from other properties, the property cannot be reasonably used according to the Ordinance: Other homes in the area may be able to attach to their garages where their situation does not allow this.

Mr. DeStefano asked if there were any other unattached garages in the area and was told that there are. Mr. Denton asked if it was always their intent to build a permanent home and live there and was told that it was. Mr. DeStefano mentioned that the Board previously denied another garage in the Lake District for a taller garage for their boat.

Mr. DeStefano asked if there was anyone who wished to speak in favor, with no comments, and then to speak in opposition, with no comments again. He then closed the public portion of the hearing.

The Board addressed the Criteria as presented:

1. R. LaFlamme made a MOTION, second by L. Denton, that #1 meets the criteria. Mr. Denton felt that it meets it according to the Ordinance. Mr. DeStefano stated that the purpose of the 20' height of garages was to keep from adding living spaces over garages. Ms. Bohmiller added that, per the size, they could fit more than one boat in the garage. Criteria #1 CARRIED..
2. L. Denton made a MOTION, second by M. Mansur, that #2 meets the criteria, same as in #1. Mr. DeStefano felt that it does not follow the spirit and Ms. Bohmiller asked what their intent was when they built the garage. Mrs. Menard stated that they planned to have a Rec. Room there. The vote CARRIED, 3 for 2 opposed.
3. L. Denton made a MOTION, second by M. Mansur, that #3 meets the criteria. Mr. Denton felt it would allow them to build and only possibly affect the one neighbor. The motion CARRIED.
4. M. Mansur made a MOTION, second by R. LaFlamme, that #4 meets the criteria. Ms. Mansur felt that it will not decrease values. The motion CARRIED.

MENARD VARIANCE DELIBERATION continued:

5a. L. Bohmiller made a MOTION, second by R. LaFlamme, that criteria 5a has not been met.

Mr. Denton stated that they made this decision in 2011 and brought the hardship onto themselves. Mr. DeStefano felt that the previous advice should have been adhered to and Mr. Denton added, or they should have figured how to attach a house when they decided to build. Mr. DeStefano stated that, if they had needed to blast, that would have constituted hardship. Ms. Mansur added that they were given advice from the Planning Board Chair before they built the garage. A short discussion was held to compare this case from the previous one that was denied. The motion CARRIED.

5b. L. Denton made a MOTION, second by L. Bohmiller, that criteria 5b has not been met. The motion CARRIED.

R. LaFlamme made a MOTION, second by L. Bohmiller, to deny the Variance for Mr. & Mrs. Menard as they do not meet all of the criteria. Mr. Denton stated that the decision that they made when they built the garage took away the hardship. The motion to DENY CARRIED and the Notice of Decision was signed. Mr. DeStefano explained that there is a 30day appeal period.

Mrs. Menard asked if the patio qualifies as being attached and Ms. Goodwin stated that it does not. The Board and Ms. Goodwin explained that a breezeway, porch or deck would.

19VAR02 VARIANCE: PHILIP SAUSVILLE

Ms. Laferriere read the application, abutters notified, where the hearing was advertised and stated that she received no phone calls or Dept. Head concerns but there are 2 written responses.

R. LaFlamme made a motion, second by L. Bohmiller, that the application is complete.

Mr. Sausville stated that he needs protection for his vehicles. Mr. Denton asked what the carport would look like and Mr. Sausville pointed out where it would be located (on the photos provided) and that it would consist of a roof and poles. Mr. Denton asked if this would be permanent and was told that it would as he cannot fit his vehicle in the small garage. Mr. Sausville also pointed out where the power lines are. He also mentioned that, in the west side of the house is an emergency exit and a deck. Mr. Denton asked where the run-off would go. Mr. Sausville answered that there is a swale along the properties which goes to the neighbor's back yard. Mr. DeStefano explained that you cannot cause more run-off to go to a neighbor's property, Mr. Sausville thought that he could pitch the roof toward the shed in the back of his property.

Mr. DeStefano read the two letters received, one was for (though they were not sure that the measurements shown were accurate, and the other was against because of the drainage coming to her property. Mr. Denton felt that Mr. Sausville needs to talk with her. Ms. Bohmiller thought that the other side of the property has plenty of room for a carport. When Mr. Sausville mentioned the exit stairs and power lines, Mr. DeStefano stated that the stairs could be moved, and he could check with the power company about possibly moving the lines.

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SAUSVILLE VARIANCE continued:

The criteria was addressed:

1. Contrary to public interest = It would not block any views nor impose on neighbors.
2. Spirit of the Ordinance = Would not affect the neighbor's privacy or encroach on their property.
3. Substantial Justice = No other place to put on their property without significant cost or miss the power lines.
4. Values of surrounding properties would not diminish = Will not affect as it will not be a stand alone building but be attached to the present structure.
- 5a No fair and substantial relationship exists between the general public purposed of the ordinance & the specific application of that provision = There is a downhill grade from the west side to the ease. This puts the back of his garage at grade with no room for expansion without excavation. The proposed use is reasonable because = There is no other safe location to store vehicles that are not in plain sight of the surrounding neighborhood
- 5b If not allowed, an unnecessary hardship will exist = due to current zoning standards, Mr. Sausville cannot expand his garage to accommodate vehicle storage and does not have room for a separate stand-alone structure that would not affect his neighbor and affect the usable yard that he has.

Mr. DeStefano called for comments for and against and did not receive any. He closed the public portion of the hearing.

Ms. Bohmiller mentioned that he has not spoken to his near neighbor about the run-off. Mr. Sausville stated that he could pitch the roof to go to his back yard. Ms. Mansur asked if he changed the pitch, where the run-off would go, and Mr. Sausville thought it would collect by his shed. Mr. DeStefano asked how many unregistered vehicles are allowed in a yard (photos show 2). Ms. Goodwin stated that you are allowed 1 unregistered but drivable vehicles. Mr. DeStefano asked what if they are inside and Ms. Goodwin said they could be but not in an open carport.

The Board then addressed the criteria:

1. R. LaFlamme made a motion, second by L. Bohmiller, that criteria #1 has not been met as there is a neighbor issue on the run-off. Mr. Denton feels that Mr. Sausville should at least talk with the neighbor. Ms. Mansur asked what would happen if he did and Mr. Denton felt that he is still in violation of about 10' into the setback. Criteria #1 was denied.
2. R. LaFlamme made a motion, second by M. Mansur, that criteria #2 has not been met due to encroaching on the setback. Mr. Denton stated that this is why he is asking for the variance. Ms. Goodwin asked that, if granted, he would meet the spirit. Criterial #2 passed 3 to 2 in denial.
3. L. Denton made a motion, second by M. Mansur, that criteria #3 is met because of setbacks on each side. Criteria #3 was denied, 2 yes, 3 no.
4. L. Denton made a motion, second by M. Mansur, that criteria #4 is not met as it could affect the neighbor. Criteria #4 carried 4 to 1 and denied.
- 5a L. Denton made a motion, second by R. LaFlamme, that criteria 5a is met as the garage and shed are already in the setbacks. Criteria 5a carried 4 to 1.

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SAUSVILLE VARIANCE DELIBERATION continued:

5b L. Denton made a motion, second by M. Mansur, that criteria 5b is met as the property is in the Setbacks. Criteria 5b carried 4 to 1.

R. LaFlamme made a MOTION, second by L. Bohmiller, to DENY THE VARIANCE FOR PHILIP SAUSVILLE. The motion CARRIED and the Notice of Decision was signed. Mr. DeStefano explained the 30-day appeal period. Ms. Goodwin explained that he could ask for a rehearing with new evidence. The Board mentioned the possibility of looking to do the carport on the west side of the building.

COMMUNICATIONS: none.

OSI CONFERENCE: Ms. Mansur will be going from the ZBA. Ms. Bohmiller and Mr. LaFlamme had conflicts come up.

OTHER: Ms. Goodwin asked if the Board would like the staff to look at Variance of Special Exception forms first. The Board had no problem with what they have now. Ms. Goodwin explained that there are a few items that need to be looked at to make it easier for applicants to understand and for the staff to get the materials needed in a timely basis. A discussion followed as to how much time is spent for the staff to try and get everything though we must put it on the agenda once the application and fees have been submitted. The Board felt that they could just deny the case if there is not sufficient material or it could be continued which would delay the project by at least a month.

NEXT MEETING: The next ZBA meeting will be held on June 4 at 6:00pm. There is a variance for Mr. Henley in Holiday Hills for his shed, which is in the setback. Folks have until May 10 to apply.

With no other business before the Board, R. LaFlamme made a motion, second by L. Bohmiller, to adjourn at 7:45. The motion carried.

Respectfully submitted,  
Jan Laferriere,  
Admin. Assistant, Land Use