

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

01 JUNE 2026
7:00 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. CHARLES BURKE, Vice Chairman
MR. DONALD KERN
MR. TONY BRUM
MS. KIM TEVES, Alternate
MR. TIM PALMER, Alternate

ALSO PRESENT:

ATTORNEY ANDREW TEITZ, Town Solicitor's Office
ATTORNEY MARK HADDEN, Town Solicitor's Office
ATTORNEY DAVID MARKS, Town Solicitor's Office
MR EDWARD TANNER, Zoning Enforcement Officer
MS. DIANE WILLIAMSON, Director of Community Development

Susan E. Andrade
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The meeting of the Town of Bristol Zoning Board of Review was held and called to order at 7:00 p.m. by Acting Chairman Burke at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

Acting Chairman Burke called for approval of the May, 4 2026 minutes

MR. KERN: Mr. Chairman, I'll make a motion to approve the minutes as written.

MR. MR. PALMER: Second.

MR. BURKE: All in favor?

MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Minutes were approved)

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SITTING AS BOARD OF REVIEW:

**2. ZBR-26-21
THOMAS A. DAWSON**

**15 Burton Street: R-6
Pl. 15, Lot 79**

Dimensional Variance to remove an existing accessory shed structure and construct a new 12' x 16' accessory shed structure with less than the required rear yard and less than the required right-side yard.

Acting Chairman Burke explained that he is an abutter to this applicant, the Board doesn't have a quorum, as there were only four Board members present; so the matter needs to be continued to the July 13 the meeting.

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MR. BURKE: I'll make a motion that we continue 3A to the July 13th meeting.

MR. KERN: I'll second that.

MR. BURKE: All in favor?

MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Petition Continued)

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3. **ZBR-26-22**
 JOHN B. AFFLECK

14 Clifton Rd.: R-10
Pl. 79, Lot 257

Dimensional Variances to construct a 12' 22' single-story garage addition to an existing single-family dwelling with less than required front yards on a corner lot.

Mr. John B. Affleck presented the Petition to the Board. He began by thanking the office staff and administration for all the help they gave him with the application process. He was not aware of the complications of sitting on a corner lot. He just moved into the dwelling, previously living in Little Compton, in July of 2025. And unlike any new house situation they approached it with a down-sizing intention. They immediately discovered there was a storage issue, even though they eliminated an awful lot of stuff prior to moving. The garage is pretty packed. They've had the fortunate luck of meeting the original builder, David Butera, who he was able to meet with and offered to go back to the house and help make some changes. They found that in the evaluation of about a year, it's not just a storage issue; it really became more of the fact that they are older and require better access. They have two cars in the garage and an old vintage car that is in the garage. They found, especially after the past winter, challenging issues with access to getting in and out of the house. When he purchased the house there were already a lot of accessibility improvements in the home and have not been able to utilize because they can't get into the garage and avoid the weather. It really has evolved into a situation of them wanting to age in place, stay in Bristol, their new home; but at this point the main priority became trying to get a laundry room on the first floor, because its presently down in the basement and his wife is experiencing difficulty going up and down stairs. As part of the proposal, the only way to get the laundry room upstairs was to bump into the existing garage, which would take away garage space. But they could gain it by building the 12 feet out. He has also spoken to his neighbors.

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Mr. Burke noted that the new templates do not see a check-off for lot coverage. Even though it doesn't seem to be an issue with this application but would ask that it be added to the new template.

The Board reviewed the submitted plans in detail with the applicant. It was noted that there is no visual issue with the corner, as the addition is back from the pavement and the lot line.

No one spoke in favor or against the Petition.

The Public Hearing was closed.

During discussion, Mr. Palmer stated that they bought the house less than a year ago and they should have been aware of the situation and he didn't see a compelling need or difficulty that would justify the variance. Mr. Kern stated that the existing garage is 15 feet away, so the house and the garage already have a variance, and he doesn't have a problem with the request. He also viewed the property and saw no issues with visual clearance going around that corner. Ms. Teves stated she also didn't have a problem with it, she thinks it would be quite an inconvenience for the applicant that has antique cars that have been coveted for years. Also, they're thinking forward with aging and bringing the laundry up will be helpful; along with the fact there is no visual issue, she doesn't have a problem with it. Mr. Burke stated he appreciated Mr. Palmer's input because he likes the fact that Mr. Palmer wants to make sure that if somebody get relief that they meet the Standards and are entitled to it. He feels that if he moved into a house, he would find out a lot about it and he thinks in a downsizing situation, you can certainly find that there is a need to make modifications. He was in support and thought that it was modest and to Mr. Kern's point, it's actually further back. The penalty is that it is a corner lot, which is very restrictive and the lot is 10,000 square feet; so, he thought the relief is reasonable for the reasons stated.

X X X X X X

MS. TEVES: Mr. Chairman, I'd like to make a motion to grant a dimensional variance on ZBR-26-22 to construct a 12' x 22' single-story garage addition to an existing single-family dwelling, with less than the required front yard on a corner lot. Based on all of the evidence presented to the Zoning Board of Review and the Board's knowledge and personal inspection of the area, the Zoning Board of Review hereby finds that 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; and not due to an economic disability of the applicant, because we did recognize that there is no issue with vision on that corner. There is a hardship; you have vehicles in which you've invested a lot of money into that you would like to be able to protect. It requires thinking forward even in place. Your wife is demonstrating some challenges with stairs; so putting that laundry up on the first floor is also giving you that relief. And this is the minimal amount of relief that you seek for that use. That the hardship is not the result of prior action of the applicant, because you didn't build the house. Although you did move into it a year ago, some things happen and you're not paying attention to everything when you do make those decisions. That the granting of the requested dimensional variance will not alter the general characteristics of the surrounding area or impair the intent of purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol, because there are many properties that are non-conforming. You

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are sitting on a corner lot, and it does make it harder for you to be within the confines of what would be required. That the hardship that will be suffered by the owner of the subject property, if the dimensional variance is not granted, would amount to more than a mere inconvenience, meaning that the relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted, because like we said, you have the cars, you'll be able to protect them; you'll have more space to do that and you'll also be able to bring the laundry up. Therefore, I move that this dimensional variance be granted.

MR. BURKE: I have one question, that was great, did you cite the actual relief necessary.

MR. TEVES: That the actual relief is that they're seeking is 14 feet on the Kingswood side, 12 feet on Clifton side; and then there is 3 feet of relief, plus 12 ½ feet on the south corner.

MR. KERN: I'll second the motion.

MR. BURKE: All in favor?

MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Petition granted)

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4. **ZBR-26-23**
SHEALYN DAVEY

11 Catherine St.: R-6
Pl. 25, Lot 41

Dimensional Variances to construct an approximate 10' x 18' two-story addition to the rear of an existing two-family dwelling with less than the required right side yard.

Ms. Shealyn Davey presented the Petition to the Board. She explained that she has lived in Bristol her whole life and this is actually a family home. It's an older house, built in the 1900's and you can imagine the stairs are very steep and narrow and make living on the second floor very difficult to move anything in or out and is very congested in that area. They are looking to add a small addition to the back. It won't affect the front look of the house, but the addition will give them stairs to code; it will give each apartment laundry on each floor. Her mom is planning on moving into the other unit as well and she is getting older and getting the laundry onto the same floor she is living on will be great. Overall, it's just going to help the layout of the renovations they are planning on doing as well and will it's also lining up with the existing structure, which is already too close to the right-side yard, but that is something they didn't have control over. She confirmed it would be 10 feet in depth and the width of the existing structure. She agreed that it will add to the revitalization of the neighborhood and the neighbor on that side of the house is excited and happy and has absolutely no problem, as it will not obstruct any views. She noted support from neighbors in the area that had submitted letters of support and the Board did receive and had reviewed.

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Mr. Teitz noted for the record that on plans A0.01 the right-side lot line was not visible; Mr. Tanner noted that the original plans do have the correct information and when the plans were copied it seems the copy machine did not fully catch the line. Mr. Tietz stated he just wanted to make sure that Mr. Tanner can make sure that the plans on file are correct, even if they have to be altered, increase that line so that it is visible. Mr. Burke stated that noted for the record, the testimony the Board was hearing and the plans that were being reviewed, the addition is in line with the existing building, and the applicant has ascertained that.

There were no further questions by the Board. Mr. Burke noted that it is a two family and its staying in the family.

No one spoke in favor or against the Petition.

The public hearing was closed.

X X X X X X

MS. TEVES: Mr. Chairman, I'd like to make a motion to grant a dimensional variance for ZBR-26-23 to construct an approximate 10' x 18' two-story addition to the rear of an existing two-family dwelling with less than the required right-side yard. Based on all the evidence presented to the Zoning Board of Review and the Board's knowledge and personal inspection of the area, the Zoning Board of Review hereby finds that 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 and not due to an economic disability of the applicant, because basically you're looking to add on stairs that would allow you to access your current

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two family easier; it is part of the revitalization of the area. We do appreciate that and it falls in line with that, so that's great. You are adhering to those 10 feet, so you're staying along the lines of the property and your abutting neighbor is pleased with this as well, which is helpful. That the hardship is not the result of prior action of the applicant, because you didn't build the house and you weren't the one that originated the house and now there's a need for this for you, so it's awkward not to have it to some degree. That the granting of the requested dimensional variance will not alter the general characteristics of the surrounding area or impair the intent of purpose of the Zoning Ordinance or Comprehensive Plan of the Town of Bristol, because there are many homes that are not conforming and you are seeking 6' 6", 6 ½, and due to the size of the lots down there that's can sometimes be necessary. That the hardship that will be suffered by the owner of the subject property, if the dimensional variance is not granted, will amount to more than a mere inconvenience, meaning that the relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted, because, as we said, you are staying within the confines of the 10 feet; you're aligning with the property, it's allowing you more access to your property, and you are changing and doing updates into the property. Therefore, I move that this dimensional variance be granted.

MR. KERN: I'll second the motion.

MR. BURKE: All in favor?

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MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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5. **ZBR-26-24**
 JOSEPH M. BRITO, JR.

161 Poppasquash Rd.: R-40
Pl. 182, Lot 7

Dimensional Variances to demolish an existing residential guest house structure and construct a 41' 2" x 44' 4" x 32' high accessory bunkhouse/boathouse structure at a size and height greater than permitted for accessory structures in a residential zoning district. Also:

Special Use Permit to construct a 41' 2" x 44' 4" x 32' high accessory bunkhouse/boathouse structure at a height greater than 25' above grade within the flood zone.

Acting Chairman Burke explained that the applicant has requested a continuance also to the July 13th meeting.

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MR. BURKE: I'll make a motion that we continue that application to the July 13th meeting.

MS. TEVES: I'll second that.

MR. BURKE: All in favor?

MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

X X X X X X

(MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued)

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SITTING AS BOARD OF APPEAL:

(The following appeals were transcribed per audio recordings)

6. **ZAPL-26-1, ZAPL-26-3, ZAPL-26-4 668 & 670 Metacom Ave.: GB**
 DAVID RAMOS/RAMOS LANDSCAPING, LLC Pl. 128, Lots 15 & 16

Appeal of three Notices of Violation dated February 12, February 25th, and March 11, 2026 issued by the Administrative Officer for conducting business operations on a Sunday and/or outside of the Planning Board's approved special use permit hours of operation.

ACTING CHAIRMAN BURKE:

The meeting of the zoning board of appeals is called to order. The first item is three appeals of three violations, David Ramos slash Ramos landscaping LLC. I am going to ask a question: Who usually presents? Is it appellant? The appellant.

ATTORNEY LANDRY:

Good evening, Mr. Vice Chair, members of the board, Attorney Matthew Landry from the Office of Blish & Cavanagh, LLP on behalf of the petitioner David Ramos and Ramos Landscaping. I am joined by my client, Mr. Ramos here. There is a lot of history involved in this as Mr. Chair you mentioned there are three notices of violation that are before you, These came in early February, mid-February, and March of two thousand twenty six. Shortly after a very lengthy and very involved unified development plan review process that my client embarked upon. It's about two years in the making, And I think a little bit of history is important here because it's the substance of why we're appealing and why we feel that there are substantive grounds to overturn these notices of violation. I expect most of you are familiar with the Ramos Landscaping property off of Metacom Avenue. It's long been the location for the storage of landscaping

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materials. My client's family, Mr. Lionel Ramos, owned the property immediately adjacent to it. Materials sorting and dumping of landscaping materials and trucking equipment, things of that nature. It came to light about two years ago that there was an expansion of this operation due to some new structures, a trailer, a membrane tent that had been erected on the property. All of that culminated in a unified development plan review petition to the planning board that included a request for a special use permit to enlarge and expand the Ramos Landscaping operation, to include what's both lots fifteen and lot sixteen being Lionel, Ramos's property or formerly of Lionel Ramos and my client's landscaping operation, I think that's the north lot and lot fifteen. What was unique about this is that you've got an existing partially grandfathered use on both of those sites that was in continuous operation for a number of years. My client's application proposed to use both of those lots, pave lot sixteen, the former Lionel Ramos lot, and construct a new building, garage if you will, to house most of the maintenance activities and the trucks there that are used in connection with the landscaping business. This storage and location of landscaping materials would be limited to lot fifteen where it had previously existed. Lot sixteen would be paved. It would be marked with spaces. We had a number of technical review committee meetings. A number of conditions of approval, most of which were suggested and proposed by my client, including hours of operation, what types of activities could occur on which lots, and so on. There were about nineteen conditions that were stipulated to, some of which evolved over time based on communication with staff and the planning board meetings as that developed. The subject of these three notices of appeal and a fourth one that came shortly, a short time ago, and not before you, all involves conditions number two and three. I don't know if you have the original recorded conditions of approval from the planning board. But there are nineteen conditions of approval. That decision was made in December of twenty five, and I think

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it was recorded in January of twenty-six. So, it was less than a month that these violations started. We're not disputing that these events occurred and that the police came. There was an incident. There is body cam footage, and we're not disputing any of that. We agree that there was ambiguity in these conditions. And I take blame for that, I think the Town is partly to blame for that in the way these conditions were drafted; again, most of which we proposed ourselves. The intent there was that the hours of operation would help control the loudest part of the operation, which is the material sorting, the dump trucks and things of that nature that would occur without any conditions as it previously existed. There were no hours of operation other than how the Town regulates those under its noise ordinance, and the like. The idea was to propose certain hours of operation to conduct those loud activities within a reasonable time frame, being seven to five during the week, after eight on the weekends, and not on holidays. The problem with those conditions is that there were multiple phone calls from neighbors about pretty much everything that was occurring on that property, including employees simply arriving to work in their own personal vehicles or sometimes work trucks, and that resulted in some of the notices of violation that are before you. It was never our intention, and I think has been conceded that we were never going to voluntarily preclude our employees, my client's employees, from just showing up to the site and getting ready for work. Warming up some of the diesel vehicles and getting ready for the workday. Mister Ramos concedes that in some of the police reports, that hey I was here just warming up two trucks. It's seven oh five seven ten a.m. These are all activities that are incidental to running a business. They have to be up and ready to go at a certain time. Most of the activity takes place off site. So, when these notices of violation came in, we appealed them within the requisite time frame and then we petitioned this board to consolidate those and continue it to this date. Because in the interim, we petitioned the planning board after discussion

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with council and planning staff that there is ambiguity in these conditions, that it makes it difficult for the Town to enforce them. And I sympathize with Miss Williamson because if they were difficult to enforce, and further complicating the matter was because this was an approval under the unified land development procedure. There was a land development approval and an approval for a special use permit and there was a question about what conditions actually apply now and what conditions actually apply post-construction. You've got an existing landscaping business and material sorting business on both of these lots that have historically been there to some extent. We recognize that there's going to be an expansion and a collaboration of the two lots with these uses. With the construction of the building, most of these issues will be abated. There was this difficulty in this gray area of which conditions are actually going to apply now as the operation continues to operate as it has been, and it morphs into this construction of the building, and we get into this final phase where certain conditions certainly wouldn't apply until then. So we petitioned the planning board and last month, the planning board, after three or four hours of testimony just from us on the agenda, went through every single condition of approval and modified every one of those to dictate which ones apply now, which ones apply to CO, and which ones apply later at the final plan. And clarified specifically the hours of operation and what activities are allowed to occur. Which, now as approved, would allow some incidental activities to occur up until I believe it was six p.m. Working on trucks. Maintenance of vehicles up until the garage is built, and then those activities would have to take place in that building. I think what we have before you is an unfortunate situation where there was some lack of clarity on how these conditions would be imposed. Planning staff was left in a position where it was getting phone calls, and there was some uncertainty in how these would be imposed. And I think now we've got a good set of conditions and stipulations agreed upon by all the parties. Condition

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by condition on how they should apply, and the way they read now would actually render most of these conditions moot. The most significant of the notices of violation I think involved the snow plowing, the salting trucks on the property. Most, if not all of these notices of violation occurred with the major storm events that occurred. And as it stands now, my client has contracts with the Town and to the state of Rhode Island to provide salting and plowing services. The, I believe it was the March twenty sixth incident. Mister Ramos actually called the Bristol Police Department and gave him a heads up because of the prior to notices and complaints. He said, listen, I've got these contracts. He had to go plow and salt, a nursing home in town as he had from the property in years past and said, you're probably going to get a complaint about this. You know there's issues with these conditions, but I need to service this contract and provide salting services to the nursing home. And sure enough, later that day, there was a complaint, and that was the third notice of violation. One of the notable changes in the conditions of approval now that were just approved last month includes a provision that allows sanding and salting and those types of incidental activities on the property in the event of a storm event, plowable snow, if you will, We've carved these exceptions out. And respectfully, we're here before you. We acknowledge that certain activities happened. We think it's because there was ambiguity in the way the conditions were written. We think the Town has conceded that we concede it. We think that now that we have a good set of conditions and stipulations in place that were recently approved by the planning board, it would make most if not all of these NOV's a moot point. A fourth one that's not yet before you that we've appealed. Had to deal with materials storing and dumping on lot sixteen, which is going to be the lot that has the building. That is already occurring on the site to some extent historically. Again, we think that's all been addressed now. As that condition won't apply until the building is built. My client could have paid these fines

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and ignored it and said, I'm not going to keep going back to the Town, I, just petitioned for changes to these conditions. He could have just kept paying these five hundred dollar fines. But we petitioned and came before the planning board, rectified the issue, he wants to work with the Town. He appealed these and he's here before you asking for some leniency and understanding here based on what transpired. And after two years of trying to get this project approved, there was some ambiguity in these conditions and that we finally have it resolved. And if we had done that to begin with, I don't believe there would have been any notices of violation. And most of these are minor, in nature, with a few vehicles warmed up in the morning for ten to fifteen minutes, if that. So again, they're benign and the conditions that are in place now are there to protect the neighbors and alleviate all these issues going forward. So that's our position. We appreciate and respect staff's position on this. We understand they were in a tough position, but we do think that it was based on the fault of the applicant and the fault of the Town and the fault of the planning board and just the way these conditions were drafted, that we didn't see the long term consequences of enforcement and how this would work, based on the nuances of the type of development that it is. At the level of encouragement here we think is minor. It will be avoided going forward given this clarity. So, with that I have nothing else to add. I would just reserve any comments following the town's presentation. My client is here. If you have any questions at all, I appreciate your time.

ACTING CHAIRMAN BURKE:

I do have some questions, at least. But that was a long speech and it's a lot of stuff there. In my reading, it seems like it's not the activity. It's the noise that comes from those activities, which is disruptive to the neighbors who then call the police. They go down and they check, and they do a

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sound check. You roll over the limit for sound, or you're outside of the limit for the operating hours.

ATTORNEY LANDRY:

We've never been held in violation of the noise ordinance or the decibel levels. I think that most of these police reports did not observe any of that activity. I just want to make note of that. The hours of operation that were proposed really went hand in hand with condition number three, the loading and unloading and materials processing. That's a source for most of that noise. That was really the intent of those activities, none of which were occurring in these N O Vs. There was no loading and unloading of materials; it was warming up trucks, except for the plows that were spinning salt.

ACTING CHAIRMAN BURKE:

But from a practical matter, it's disruptive to the abutters living in a residential zone, and that's why there has to be special use permits in order to operate this type of business there. Your client has been before us; we had this discussion last year before he went back and worked with the planning board, so we've heard quite a bit of it. But to me, it's the activities and what they result in that your client should be sensitive to.

ATTORNEY LANDRY:

Of Course

ACTING CHAIRMAN BURKE:

And so you know, I'm having a little bit of difficulty understanding. We didn't understand that we couldn't do this. But you certainly understand that when you start up trucks at six o'clock in the morning, it's going to make noise and it's going to wake people up.

ATTORNEY LANDRY:

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And I would just say in response to that, the trucks and the noise were already occurring on the property without any conditions of approval, without any regulations other than the Town's noise ordinance and the hours of operation, which I think goes till eight p.m. The conditions that my client self-imposed were to address exactly what you said, Mister Chairman. And again, it became this kind of nuanced issue where you've got an existing operation that, to some capacity, had historically done these things, and a new development approval for something that hadn't even been built yet, and how you blend these new conditions with what the operation as it was already operating. So, its striking a balance, and we are sensitive to that, which is why we agreed and proposed all these hours of operation and conditions.

ACTING CHAIRMAN BURKE:

Part of the issue may be that people are trying to manage the process, to get the result, and if your client knows the result, the negative result, and does whatever he needs to do to eliminate it, then we wouldn't be an issue.

ATTORNEY LANDRY:

And I think that he has to be able to operate in some capacity. The intent was certainly never to get a notice of violation for people showing up for work. If somebody's there at seven oh one, there is a police report about it. I mean, there's a lot more phone calls other than what we've been issued for NOVs. And I think everybody understands that he's got to operate in some capacity with limits, understandably. We don't respectfully feel like these rose to the level of what the conditions are trying to prohibit, warming up vehicles and incidental maintenance. That was a long discussion last month on how to amend these conditions to address those concerns. The neighbors were there. The planning board agreed that certain incidental activities like routine maintenance of these vehicles should be allowed within these hours of operation.

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ACTING CHAIRMAN BURKE:

I'm not going to I'm not questioning the hours of operation.

Mr. David Ramos:

I just want to point out.

ACTING CHAIRMAN BURKE:

Do you want me to swear him in?

ATTORNEY HADDEN:

I think that's a good idea.

ACTING CHAIRMAN BURKE:

Could you please state your name and address?

MR. RAMOS:

David Ramos, six seventy Metacom Avenue, Bristol Road. Right here please.

ACTING CHAIRMAN BURKE:

You swear to tell the truth, the whole truth, and nothing but the truth.

MR. RAMOS:

Yes, sir.

ACTING CHAIRMAN BURKE:

Thank you.

MR. RAMOS:

Basically, I just want to point out we are in a commercial zone. I know we abut residential, but we are commercial. So, where the special use permit was basically what's required with the Town's bylaws to get the building process going. But as far as the business being on that property, we have a certificate that states we could be there from twenty twenty two. So, you

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know. Again, like Mr. Landry had stated, We're we are trying to limit ourselves to, come to a an agreeing area on this, but we also do need to be able to operate our business. I mean we are on Metacom Avenue commercial zone. There are people, half a block away that do the same type of business in the same zone. And there's you know, we just hoping that you can see that some of these violations were really. If you watch the body cam footage, we weren't doing anything wrong. We weren't running equipment. We weren't even...one day we were there just drinking coffee. So, I just hope that you can, if you did look into them and see that some of the calls coming in are repetitive. I don't know if it's trying to think it's going to stop the development of the land or what the reasoning is. But again, like Mr. Landry stated, I think in time with the new building and with a lot of the conditions we imposed on ourselves, you're going to see a big improvement.

ACTING CHAIRMAN BURKE:

Thanks. Let's go.

MS. TEVES:

One question. I'm just seeking clarification on what the acceptable noise meter amount is. I'm seeing sixty point zero decibels at the time of measurement. I don't know what the actual is there an acceptable amount?

MR. RAMOS:

It's seventy or seventy-five if, in one of the police reports, actually several of them, you can see me ask the police officer, "Can you take a decibel reading?" I'll turn off my trucks. I'll turn them on and the reading doesn't change. And he's actually picking up more action from the cars going by on Metacom Avenue. So there hasn't been any violations that the police department set on us.

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This was all through the planning board based on the conditions. There was never any based on the Town's regular ordinance, we weren't in violation of any noise readings or anything like that.

ACTING CHAIRMAN BURKE:

Anything else? Thank you. Thank you.

ATTORNEY DAVID MARKS:

Good evening, Chair and members of the board, David Marks here on behalf of the administrative official. And just for the record, I know you are used to seeing me in a capacity to advise the board. So tonight I am Mr. Tietz already explained this, but tonight I am not advising the board in any way. I am just here to represent the local officials and boards. This appeal, I had a lot of evidence prepared to show. I think that according to the appellant's attorney, it seems like they concede that a lot of this activity was taking place, and they just characterize it in a different way. I have to disagree, first of all, that the conditions on the special use permit are ambiguous. I don't think they're ambiguous at all. I think they're clear. I also note that they've said these were their own conditions that they drafted themselves. Also, it's hard for me to agree that they've been trying to accommodate the Town when there are three notices of violation; it seems like they kept violating. They could have appealed the one notice of violation and come in here and pled their case, but instead, they've let three and now I think four notices of violation stack up. So I have to push back on their characterization that they're trying to work with the Town on this. It is true that the planning board amended the special use permit so that the conditions were more favorable to the appellant, but to be clear, all these notices of violation were issued before that amended permit existed. The administrative officer was basically just enforcing the special use permit as it existed at that time. So, I think the original permit was submitted by the appellant. I just want to read one section of it. Finding one says, The board

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finds the activity on lot fifteen is similar in nature to materials processing, with the loading and unloading of trucks and the coming and going of materials. Condition two is that the business hours of operation on both lots shall be limited as follows: general business hours Monday through Friday seven to five. Saturday, eight to three, and closed on Sundays and holidays. And three is no materials processing or unloading loading of trucks, including shipping or receiving hours before seven a.m. It's the same hours as condition number two. So, for the sake of efficiency, I would ask permission to question the administrative officer directly.

ACTING CHAIRMAN BURKE:

You state your name and address?

MS DIANE WILLIAMSON:

Diane Williamson. I'm the director of community development for the town of Bristol.

ACTING CHAIRMAN BURKE:

Do you swear to tell the truth, the whole truth, and nothing but the truth?

MS. WILLIAMSON:

I do.

ATTORNEY MARKS:

So Miss Wilkinson, how long have you worked for the town?

MS. WILLIAMSON:

I've worked for the town for thirty-one years.

ATTORNEY MARKS:

And have you been an administrative officer that whole time?

MS. WILLIAMSON:

Yes.

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ATTORNEY MARKS:

So can you briefly describe your responsibilities?

MS. WILLIAMSON:

I am staff to the Planning Board. I draft decisions for the board. I attend all of the meetings and follow up with enforcement on the board's decisions.

ATTORNEY MARKS:

Were you the one who issued these three notices of violation?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

And were you familiar with the special use permit and its conditions that govern this property?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

How did you gain that knowledge?

Ms. Williamson:

I was part of the team that drafted the conditions and the decision. I also attended the planning board meeting and followed up to prepare the final decision as approved by the board for recording.

ATTORNEY MARKS:

At the planning board meeting, was there any discussion as to why the business hours of operation should be limited?

Ms. Williamson

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The board wanted to limit the business hours of operation to avoid impacts to the neighbors from the operations, which could be noisy and dusty and disruptive to them.

ATTORNEY MARKS:

Did they mention the noise from trucks running?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

As you understand these conditions, would you include trucks running as business operation?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

And can you tell us why that would be a part of these conditions?

MS. WILLIAMSON:

Again, the trucks that the operation would run are loud and are big trucks that have a volume to them.

ATTORNEY MARKS:

Now the appellant mentioned decibels. Is there anything about decibel or noise readings in these conditions?

MS. WILLIAMSON:

There is a condition that they have to comply with the noise ordinance. But the specific conditions that I was referencing in the violations were only as to the hours of operation and the hours of loading and unloading.

ATTORNEY MARKS:

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So would it matter if the appellant was operating his business outside of business hours, but the decibels weren't violating the noise ordinance, would that still be a violation of the permit?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

Did these conditions seem ambiguous to you when you were enforcing these?

MS. WILLIAMSON:

No.

ATTORNEY MARKS:

Can you tell us how ... what gives rise to you issuing a notice of violation usually, how does it begin?

MS. WILLIAMSON:

It's usually complaint driven from a neighbor calling and complaining, and then we investigate it, and if it warrants it, we issue the notice of violation.

ATTORNEY MARKS:

I don't want to belabor the point too much, but let me direct you. Let's just talk about the first NOV. I'm going to ask you to look at page three of the memo that you've submitted to the board.

You recognize this document?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

And can you tell us what this is and how it relates to your decision to issue the violation?

MS. WILLIAMSON:

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This is a Bristol Police Department incident report that I received from the police department. I reviewed it and the body-worn camera footage that was also sent to me. Based on that, I issued the notice of violation.

ATTORNEY MARKS:

And what was going on that you saw as a violation?

MS. WILLIAMSON:

So on this day, which was a Sunday, they were unloading salt from the salt truck.

And I was just going to say they were not permitted to be working on Sunday.

ATTORNEY MARKS:

And you said there was also body cam footage that you viewed?

MS. WILLIAMSON:

Yes.

ATTORNEY MARKS:

And that helped your decision to issue the violation as well?

MS. WILLIAMSON:

It did.

ATTORNEY MARKS:

Can we pull up the one video? And your date in February? It's February eighth, I believe this time.

Ms. Williamson

That's right.

ATTORNEY MARKS:

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Are you ready? Before you started, I just wanted to ask. This is the video that you reviewed. I would just ask the chair if we could admit this video file into evidence. This is the February eighth body cam video.

MS. WILLIAMSON:

Yes.

BODY CAM FOOTAGE WAS PLAYED FOR THE BOARD AND AUDIENCE.

ATTORNEY MARKS:

8Could we, for the record, identify the date and time on top of what has just been shown? So we have a number and ask that it be introduced into evidence.

ACTING CHAIRMAN BURKE:

Yes.

ATTORNEY HADDEN:

Could we for the record just identify the date and time on top of what has just been shows?

ATTORNEY MARKS:

This is the body cam footage from February 8th, 2026, when the first NOV was issued by Ms. Williamson. Tell us what happened in this video and why it was a violation of these conditions?

MS. WILLIAMSON:

It was the violation of the conditions because it was operating, specifically unloading a vehicle or vehicles on a Sunday.

ATTORNEY MARKS:

And do you recall what the worker said about how long he was there and how long he would continue to be there?

MS. WILLIAMSON:

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He said he was there about half an hour, and he was going to be there about another 15 minutes.

ATTORNEY MARKS:

Can you find any ambiguity in this condition that says it's closed on Sundays? Insofar as this kind of work on a Sunday?

MS. WILLIAMSON:

No.

ATTORNEY MARKS:

We have body cam footage of the other violations. I think I don't want to belabor the point. I would just say that these conditions that were submitted with the appellant's documents are not ambiguous. Although they're not the conditions that I think the appellant wished he had provided, these are what were adopted. The administrative officer has to enforce these conditions, and she has a hard enough job fielding complaints. She can't really look at these unambiguous conditions and then say, 'Well, is there an exception because there's a snowstorm? Is there an exception because the client is a nursing home? Is there an exception because the client is the state of Rhode Island?' So, I think although maybe these weren't the best conditions for this business, these are the conditions. And, just to be clear violating these conditions does not depend on any noise reading or decibel level. It's simply business hours and when they're allowed to operate. So, I think from this video it's clear that they're not just starting up cars or getting ready for work. These are business operations, like the appellant's attorney said, most of the business takes place off of the premises. So when they're on the premises unloading salt and getting trucks ready, that's the operation of business that takes place on the premises. Again, the appellant mentioned the intent of the planning board. I can't see ambiguity. I understand this no longer the special use permit that exists, but this the one that existed when Miss Williamson was

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enforcing these violations, and so I think, her determination should be upheld. And any questions for me or her?

ACTING CHAIRMAN BURKE:

Is there any document that summarizes these, like this is the first violation, this is the date, and it's a violation because I would have to look.

Ms. Williamson:

It's in the packet. So, I did give you a cover memo and attached to the cover memo are the three memorandums. There's a memo followed by a police report, and the memo, I'm sorry, the letter following the memo is a copy of the notice of violation. The first one states that it was unloading materials on a Sunday. The second one was operating a business before eight a.m. on a Saturday. The third one was operating a business or business operations before seven o'clock am on a weekday.

ATTORNEY MARKS:

And you'll also find all the associated police reports of the officers.

ACTING CHAIRMAN BURKE:

Did any of the session get this? I don't know if it was session or sessions, the recent ones with the planning board change any of these conditions?

MS. WILLIAMSON:

They did provide... because these were at least two of them were a result of either a plowable storm event or snow and ice, the board did provide an exception to the loading, unloading prohibitions if it is related to a snowstorm or an ice storm.

MS. TEVES:

Did that happen between February 12th and March 10th?

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MS. WILLIAMSON:

No, it did not.

ATTORNEY MARKS:

And for the record, I would agree with the appellant that some of these violations might not be violations under the new permit. Just to be clear, I understand that argument. I just think we have to give the administrative officer credit for enforcing the conditions as they are, not how they might one day be changed.

ACTING CHAIRMAN BURKE:

I'm just trying to get an understanding of the intricacies. It is complicated because the town's tried to work with the appellant. With this one we started months ago. I know they're trying to work with them. Just trying to get an understanding of whether there were real issues or if you can't work on a Sunday, you can't work on a Sunday. It's pretty clear. I'm just if there was something in there. So are you saying that you've made an emergency provision and the new conditions?

MS. WILLIAMSON:

Yes.

ACTING CHAIRMAN BURKE:

If there's a major storm.

MS. WILLIAMSON:

Yes.

ACTING CHAIRMAN BURKE:

How do you define the storm in order to see if that's reasonable?

MS. WILLIAMSON:

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I have a copy of the new decision. I also want to state while David gets that, The other clarification that the board made in the hours of operation were that the business owners... The business owner and his employees can arrive, and leave the site, in trucks before and after the...

ACTING CHAIRMAN BURKE:

Unlimited?

MS. WILLIAMSON:

They can, yes, because there was no stipulation previously, so it doesn't prohibit them or limit them from arriving or departing the premises before or after the hours of operation. And in your question on the snow exception, it says condition this is in the new decision. The condition three shall not apply during periods of snowfall or storm- related events that necessitate snowplowing. And/ or salt/sand operations to commence from the subject property.

ACTING CHAIRMAN BURKE:

So, there's quite a bit of leeway there if there's a storm. But these violations didn't necessarily meet those conditions. But working on Sunday on the eighth of...

MS. WILLIAMSON:

So, on the eighth, they were discharging salt from the trucks, which was unloading on a Sunday. Again, that was prior to the current revision.

ACTING CHAIRMAN BURKE:

Right, right, was there a storm that day? I know the big storm was on the twenty fourth.

MS. TEVES:

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But that provision wasn't part of this. That's why I asked for the dates because they discussed this with the planning board after these three violations and made the adjustments after. These dates didn't have that emergency provision.

ACTING CHAIRMAN BURKE:

Right, but I am just trying to see if there was some acknowledgement from the town that we missed something. But I don't think the eighth one there was working on a Sunday. That wasn't a storm that day.

MS. WILLIAMSON:

I don't recall when the storm was, but they were...

ACTING CHAIRMAN BURKE:

The big storm was on the twenty fourth.

MS. WILLIAMSON:

Regardless, I guess regardless of when the storm actually occurred, they were unloading the salt from the trucks on a Sunday.

ACTING CHAIRMAN BURKE:

So, counsel for the appellant indicated that the town and the planning board agreed there was some confusion.

MS. WILLIAMSON:

I wouldn't say confusion. I think there was maybe an omission on the need for a provision to address the snow plowing operations that this business provides. I think that was taken care of at the last planning board meeting.

ACTING CHAIRMAN BURKE:

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And the reason I ask is if you did agree that there was a valid reason for not understanding the conditions that were agreed to, then would you be willing to waive those? You haven't done it. Obviously, you haven't waived the fines.

MS. WILLIAMSON:

And I don't... well the appeal tonight. I think it's to get your determination on the validity of the violation and the fine. I think as stated there was no exception in the previous decision about snow plowing, salting, sanding, who the client was, et cetera. We received a complaint through the police department. It seemed pretty clear to me that there was a violation. So, it wasn't necessarily an ambiguity. It was more as I said, I think it was maybe an omission of recognizing that this type of activity also needed to somehow be regulated through the permit.

ATTORNEY MARKS:

But also, the original conditions, according to the appellants, were basically drafted by them.

MS. TEVES:

If they were operating and doing snow removal, they probably should have thought about operating on...

ATTORNEY MARKS:

Right so I don't think it's fair to characterize this as the town realizing they messed something up.

Um you know I think it's just recognizing what conditions should have been there. Maybe.

ACTING CHAIRMAN BURKE:

Right now, we're just information gathering. I'm just trying to get an understanding.

ATTORNEY MARKS:

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Also, to be clear, the board can... The board can reject the appeal and also modify the fine. So, I wouldn't be opposed to that given the new permit that exists, But we just we do think that the official should be upheld because these were the conditions that she was working with.

ACTING CHAIRMAN BURKE:

Any other questions? I think the next step in an appeal is the rebuttal. In an appeal, does the public get a chance to speak?

ATTORNEY HADDEN:

Yes. And then you may wish to have the rebuttal after that, so they can respond to everything. Rebuttal to the rebuttal.

ATTORNEY LANDRY:

I thank you again. I don't want to belabor the point here. We don't dispute the body cam footage and what occurred. I will say that in discussing these issues with the town, there was some acknowledgement that enforcement has been a nightmare because they are in ambiguous conditions, and they're not easily enforced. And that there was a need to pursue an amendment to these conditions to the town, which we promptly did so. My client is not trying to be difficult here. We're here. We went through the process to amend these to make everyone's lives easier. I sympathize with Diane; I know you're in a very difficult position. I would say, at least with respect to the first NOV, even the police report and what you saw there. You heard more noise from the traffic going by than you did from the trucks that were there. And all he was doing was spinning salt. There's a question of whether or not that has anything to do with the business, or retail sales or anything in connection with it. He was spinning salt after a significant snowstorm and storm-related event. This was a very small, isolated event, and you could barely hear anything on that video. The police report even indicates that no further issues were observed and

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no violations were found. Even as of the date of this police report, they did not feel that it arose to a violation of those conditions but simply documented it with the police report. The police report for the second notice of violation, February twenty fifth, indicates that there were two pickup trucks—not heavy loaders or dump trucks—pickup trucks. And there is nothing in these conditions of approval that prohibited any employee from being on that property in their own personal vehicles. Or some benign work truck like a pickup truck. I don't think the town has any jurisdiction to exclude the owner from his own property outside of hours of operation. I think the terms 'hours of operation' the way they're originally drafted is ambiguous. Does that mean sales? Does that mean open to the public? Does that mean opening the gates for business? Does that mean materials processing and storage? We think it's the latter. We think it's unloading and the processing and all those heavier activities, not a pickup truck being started for the day or somebody arriving for work. Like my client said, they're sitting around drinking coffee. These are not extravagant events. I will concede that there was no provision for the snow plowing, and I think it was the third notice of violation in March. My client would concede that point because we carved that out in the amended conditions of approval. The planning board clearly thought that was an important provision to include and would allow my client to do that, even in consideration of the noise concerns because of snow-related events. There was a specific provision that was agreed upon by all the parties to allow that activity to occur. And they even acknowledged, and I think everybody acknowledged with these amended conditions that vehicle maintenance, working on trucks arriving at the property before hours of operation, even welding are all now part of the conditions of approval, activities that are allowed on site. I think there's been some acknowledgement by the town and the planning board that maybe these conditions were a little bit ambiguous and unclear. And I think there's more than my applicant to fault for

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that. I think we're all at fault for that, and I'm at fault for not including certain provisions of that. But I do think in reading these, they're subject to more than one interpretation. Particularly when someone's there for ten minutes, just spending salt on the property, not really in connection with the business. And the other is my client in two pickup trucks on the property for 10 - 15 minutes arriving to work. My client would concede that the third NOV, and we'd certainly be agreeable to a modified fine for these violations, just based on the granite that, or the gravity of what were actually the subject of these N O Vs, with maybe the exception of those plows for the third one, where there was more noise; the other two are really benign I nature and I think honestly could have gone either way, based on a fair reading of what these conditions said. So, again, we've resolved this, there's an acknowledgement amongst all the parties that there was some issue with enforcement and lack of clarity on how these should be imposed, whether now or later and if they applied to employees simply showing up for work. So, respectfully, that's our position. Thank you.

ACTING CHAIRMAN BURKE:

So, your position is that there was ambiguity on not working on Sunday, not working on site before eight a m on Saturday and not working before seven a m on days other than the weekend?

ATTORNEY LANDRY:

That's right with the hours of operation and I think it's condition two and condition three. Working in general business hours; does that include employees showing up for work in a pickup truck? Does it include just spinning salt on the property in connection with a storm-related event? I think those could fall outside the scope of general business hours. These weren't trucks coming to the property dumping landscaping materials. That was really the nature of these

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conditions. The loading and unloading of materials, significant materials as was the case for the property. These are very small isolated events and didn't include those types of activities.

ACTING CHAIRMAN BURKE:

Okay, were each of these violations predicated on a complaint sent to the police?

ATTORNEY LANDRY:

Yeah, and as I mentioned, the first complaint that resulted in the police department coming, they found that there were no violations on site. That's what the language of the first...

ACTING CHAIRMAN BURKE:

No violations? They went on a Sunday?

MS. WILLIAMSON:

No noise violation.

ATTORNEY LANDRY:

No noise violations

ACTING CHAIRMAN BURKE:

Noise by on February eighth, so we were off that. By the way, we were off the noise. I believe I was corrected that none of these violations were based on the decibel level.

ATTORNEY LANDRY:

That's correct. I agreed. My client's never been found to violate that. But this first police report says that no violations were found in regard to...

ACTING CHAIRMAN BURKE:

Right, and that's corrected because they were gone by the time they got there in that report.

ATTORNEY LANDRY:

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Well, no, they were there when they showed up. That's the body cam footage. There was somebody on site.

MR. RAMOS:

And basically I think a big problem. This was interpreted from the start with the original draft. It's good that we made the revisions that we literally couldn't be there on Sundays. And again, I can take any of those trucks, and that's how we changed it. So now I can show up on a Sunday if I need to take a truck and bring it to work in Providence on Sunday night. I can do that where, the hours of operation really, I think that was kind of tweaked. It really should have only from the start been shipping and receiving hours are. I was never limiting like the hours that I am actually... because let's face it, we're landscapers. Sometimes we're finishing cutting grass five thirty six o'clock at people's houses, we're coming back in parking at the end of the day. That's not going to be considered a violation now the way that the new special use permit is now. I do agree. I know you guys are voting on the original, and I totally respect Mrs. Williams's position where she's only enforcing based on the vagueness of condition number two, how it originally read. So again, we're not here really to fight and say we're not willing to pay the fine. We just wanted to bring to light that these things have been changed and going forward, they shouldn't really arise any issues.

ACTING CHAIRMAN BURKE:

Okay, that works for me. I am convinced that the town is trying to make things really work.

MR. RAMOS:

And I am too. I agree. I think that we just clean these up. I didn't really come here tonight. My lawyers cost me more than fifteen hundred dollars for this. It's really just to bring this all laid out on the table, address the issues. I know originally, you asked why the first violation wasn't

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addressed sooner. I think it was something where we kind of decided that, hey, before we go in front of the board for these notices of violation, let's address the issues. We have a problem with the special use permit, make the changes we need to make and amend it. I would like to see you guys give me a reduced fine based on you know this the situation. But again, whatever you can do with us. We understand we're a local business. We're trying to work with the town as well. So I appreciate it.

ACTING CHAIRMAN BURKE:

Mr. Marks, any comment? We're going to open it up to the public if you want to wait.

ATTORNEY MARKS:

I'll reserve maybe for just a closing sentence or two.

ACTING CHAIRMAN BURKE:

Would anybody like to speak in favor of this appeal? Would anybody like to speak in favor of this appeal? Would anybody like to speak against? Would anybody like to speak against this appeal? Come on up. Are you together?

ACTING CHAIRMAN BURKE:

Name and address?

Ms. Carol Fernandes:

Carol Fernandes, and it's forty three Lisa Lane. I am directly behind lot fifteen. So I think one of our biggest concerns here is that these stipulations were presented to the planning board by Mister Ramos himself for a period of time after February and March those violations, things he abided by those rules. Things have been quiet up until recently there was an incident a few days ago where he was screaming at seven a.m. for his guys to turn off the trucks, so he clearly understands that there are business hours. There are also violations of that tent that is still on that

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property that he still has not addressed. There are things that he continues to bring up to the town. That we continue to try to enforce as well. We're in communication with the town. We tell you all of our concerns. We tell you all about the noise. We don't want to. And we're told that this is what we have to do. This is the only way to enforce the stipulations he put into place. The noise is... granted, I will say that it was a bit... Business hours could be moving trucks in. It could be having guys on the property. It could be anything. We were under the impression a violation is business hours. No one should be on the property but Mister Ramos himself. That was the only person that should be on that property because he's allowed to do paperwork, anything else that he's needed to do, but there was going to be no noise. And it's not limited to loading or unloading of material. It's the reversing of the trucks. It's the loud beeping, its everything. Our properties face that line. And when it's wintertime, there's no trees to soundproof any of that. Granted, it's a little nicer now so the trees are starting to fill in. I'm not really concerned about what's going on there as long as he's not making a ton of noise before hours. And that's really my only concern. He continues to break these rules that he put into place, and we come here. We argue the point. It doesn't get swept under the rug, but we voice our opinions because we have to live there. And it seems like we become a little bit more lenient with some of these guidelines. Again, stipulations he brought to the table. We didn't go to him and ask him for business hours; he came to us.

ACTING CHAIRMAN BURKE:

Thank you. Could we see your name and address, please?

Ms. Shannon Lagarto

Sure. Shannon Lagarto, forty six Lisa Lane. I agree with Carol. But I do have to say this is exhausting. Hearing that this has been over two years that we've been dealing with this. It is

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exhausting and comical at the same time. While I sit here and listen to the stories that are being told, the videos that we're seeing. I'm a part of that. That's my everyday. You guys do this job because you enjoy it, and you try to do things the right way. I'm a resident who has paid taxes, and I'm being told to do things the right way. I'm being told to call the cops. I'm being told to complain. Do you think I want to spend my afternoon, my mornings at six thirty in the morning complaining? While I'm trying to get my two young daughters ready, and then a police officer shows up, and they're wondering why I had to call the cops. Their mom had to call the cops on our local business. This is something I do not want to be a part of. I didn't ask for this. I've lived there for sixteen years. Lionel Ramos was a fantastic neighbor. You can probably look up any registration of his vehicles. He never had any vehicles the size of those, so when we're talking about this has been grandfathered in. Lot sixteen was the only one that ever had a vehicle on it, and it was two vehicles and the sifter that he now sold. The new owner, if there are two names on the property, two different properties. The amount of trucks that come in and out of that property, the exhaust on that eighteen wheeler when they're heating it up for an hour. I have videos. Because it's a diesel vehicle, and it needs to be heated up for a long period of time. The exhaust pulling out onto Metacom Avenue when they cut cars off and they're beeping, it is exhausting. This is something I do not want to do. This is not fun for me. It's not personal at all. So when he stands up here and says that the only reason why we're getting these violations is to stop a building from going up. It's ridiculous. I want the building to go up. Because hopefully all the shit that's in that parking lot will go away. The compost, their landscaping, he has two landscaping trucks. That is an excavation company, don't be fooled. A landscaping company does not need that big of vehicles. He's got two landscaping vehicles that empty behind the box truck that's there now. And with all this rain, let me tell you, the smell of compost is disgusting

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coming in my kitchen window. This is not fun. The violations are stipulations that he put into place. We didn't ask for it. We don't want it. And to be honest with you, it is exhausting.

ACTING CHAIRMAN BURKE:

I appreciate your comments. We're here tonight to address the appeal of the three violations.

Ms. Lagarto:

I understand that, but you also said that you were here tonight to gather information. Because you talked to the lawyers and you said we're trying to gather information. So, do you understand the fact that when we talk to so many people and send emails to so many people, we never get a response? So, I am going to speak publicly when I have the opportunity, to whoever wants to listen, or if you don't, I am sure somebody in this room will.

ACTING CHAIRMAN BURKE:

I am listening. I am explaining that we can't fix those problems.

Ms. Lagarto:

I understand, but I need my voice to be heard.

ACTING CHAIRMAN BURKE:

I hear them and I'll reference that that's what needs to go back to the bodies that have jurisdiction over it. But our role here tonight is to determine whether or not there were violations and whether they should be upheld. But thank you for your input. Would anybody else just like to speak against this appeal? We'll close the public hearing. What's the next step, Councilman?

ATTORNEY HADDEN:

You'll have to close the public hearing. I would have your discussions and then you can close the public hearing. Then you can determine whether you want to vote tonight or have come to some sort of agreement as to what you think the decision should be and look like. Perhaps Ed or

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I can draft something for you. Then come back the next time for the purpose of voting. Or you can try to put something together tonight verbally.

ACTING CHAIRMAN BURKE:

Typically, what we would do is we close the public hearing, and then we would have our deliberation. So, we're going to close the public hearing if that supports everybody. I'm certainly not comfortable second guessing the people that have been involved in this for literally months, if not longer, in determining. I mean, to me there were violations. I mean, it's Sunday is a Sunday, a time is a time. And I'm not real comfortable. I think I would leave that up to the people that issued the violation to make any modification to the fine. I don't have that high of an opinion of myself to think that I should figure out whether or not they should pay five hundred or some other amount. That's just my opinion. And I mean, we can make it real complicated, or we can make it relatively simple. On the surface, there were violations. The appellant and his counsel wrote up the conditions. There's four violations, three that we've heard tonight and one more. That apparently weren't enough to figure out that something had to change to avoid more violations. I am not really willing to overturn the decision of the town.

MR. PALMER:

I agree with you Charlie.

MR. KERN:

I agree that there were three violations and I think the first one, February one, was spinning of salt and it was enough so that was loud in my opinion. I'm wondering if the administrator makes a fine and holds (inaudible) on that one and let them figure out what to do with the others.

ACTING CHAIRMAN BURKE:

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They can have the ability to do that. I asked Mr. Marks if he was willing. He can reiterate whether he would or not, but I don't think that's enough for a review. I don't think we have enough information and they issued it. And if they think that it's not warranted, then they can make a decision on changing it. Certainly, I can't overrule that they weren't there on those hours when they were outside of the hours that they agreed to. It's pretty clear.

MR. KERN:

I agree with all the above.

MS. TEVES:

It's all right here in the paper, the dates, the times. You have the police report showing the times that they were there before. I can read it off to you if you'd like: seventeen, seven, sixteen a.m. on Sunday, not acceptable. Don't care about the noise, zero five fifty hours on March tenth. I can go back into this one right here, seven sixteen a.m., they're all here. And if we stay focused on what this special use permit was during that time of these violations, two and three are violated. These are fines that I feel he should be charged for his violations. That's my stance.

ACTING CHAIRMAN BURKE:

I'd like to take you up on your offer to draft a decision. The town can draft a decision.

That includes... I'm going to make a motion on what it should include. I'm going to make a motion that we request that the town generate a decision that denies the appeal based on clear evidence and testimony that the three violations were correctly issued and were violations involving days, or times that were allowed at the existing special use permit that were drafted and agreed to by the appellant. Anything else you'll anybody want to add? That's my motion. Is there a second?

MR. KERN:

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I'll second that motion.

ACTING CHAIRMAN BURKE:

All in favor?

MS. TEVES: Aye.

MR. KERN: Aye.

MR. PALMER: Aye.

MR. BURKE: Aye.

ACTING CHAIRMAN BURKE:

The next meeting. Can we go ahead by the thirteenth? So I'm going to make a motion to continue this matter for a final vote and decision on the appeal to the July thirteenth zoning board of appeals meeting. And it will be before the board of appeals. Can I have a second?

MR. KERN:

I'll second that motion.

ACTING CHAIRMAN BURKE:

All in favor?

MS. TEVES: Aye.

MR. KERN: Aye.

MR. PALMER: Aye.

MR. BURKE: Aye.

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7. **ZAPZL:-26-5**
JOHN J. MARSHALL

8 Constitution St.: R-6
Pl. 11, Lot 20

**Appeal of a decision of the Bristol Historic District Commission denying
installation of a sliding door on an existing accessory garage structure.**

ACTING CHAIRMAN BURKE:

The meeting of the board appeals will reconvene.

The next item is an appeal of 8 Constitution Street for the installation of a sliding door on a garage without prior authorization. Mr. Hadden, would you like to read the standards for the review?

ATTORNEY HADDEN:

Thank you. Unlike the last hearing in which you were able to make a decision de novo. In this case, you can only reverse the decision of the historic district commission on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record. In other words, you don't decide de novo what the facts are. You have to take the decision and the record as you find it, and make a determination whether there was prejudicial procedural error, clear error or lack of support by the weight of the evidence of the record. Which means even if you may disagree with the ultimate decision of the historic district commission, that doesn't mean you can substitute your opinion for theirs. And in fact their decision, if you find that there is a scintilla of evidence in the record which supports their conclusion, more than a mere scintilla, then it doesn't have to even be a preponderance of the evidence. If you think it's 51% the other way from what they decided, that doesn't mean you get to substitute your judgment for theirs.

ACTING CHAIRMAN BURKE:

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Procedural would mean they failed to follow their own procedures in making the decision.

ATTORNEY HADDEN:

That would be an example.

ACTING CHAIRMAN BURKE:

Clear error would be, could you give us an example?

ATTORNEY HADDEN:

Clear error would be if they failed to cite, for example, the secretary of the interior's standards which they, in fact, did.

ACTING CHAIRMAN BURKE:

Which related to an adverse decision.

ATTORNEY HADDEN:

Correct.

ACTING CHAIRMAN BURKE:

Which related to the decision that's being appealed.

ATTORNEY HADDEN:

Correct.

ACTING CHAIRMAN BURKE:

And the third item would be prejudicial?

ATTORNEY HADDEN:

The third one would be lack of support by the weight of the evidence in the record. If you were to say, well, I think the preponderance of the evidence goes the other way, that would not be

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enough for you to change. If there is more than a mere scintilla. It's a very low standard. It doesn't even have to be a preponderance that supports the decision.

ACTING CHAIRMAN BURKE:

I pretty much understand the standards. I think we've been through some of these before, not many, but I think I understand it. So basically, we don't judge. We don't have the ability to say that it's okay and grant the appeal. Okay, any questions? Mr. Rego.

ATTORNEY ALFRED R. REGO, JR:

Alfred R. Rego, Jr. on behalf of the applicant, John Marshall, who was here to my left.

ACTING CHAIRMAN BURKE:

Is your client going to speak?

ATTORNEY REGO:

No, this is strictly dealing with... He may I'll ask him if he has anything to indicate that.

ACTING CHAIRMAN BURKE:

I just want to know if I need to swear him in. I will if he needs to speak.

ATTORNEY HADDEN:

The decision you're making here is based upon the record as it is and materials that have been previously provided to you. This is not an open hearing for members of the public to chime in at this point because there were hearings that were public hearings advertised as such and done both by the historic district commission at their facility and also on site. So those would have been the times to gather evidence. This is not that time.

ACTING CHAIRMAN BURKE:

Okay, thank you.

ATTORNEY REGO:

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Our appeal of that decision is a request that the board reverse the district commission's denial of installation of those windows. My understanding of the code is that what one looks at if one is seeking forgiveness rather than permission. It is to evaluate as though it were a fresh application, not that we were in violation. That is to install something that should not have been installed. And I believe that when you look at what the board previously approved for that location, which is set forth in various exhibits that were submitted before the board, the redesign for that small building to a two story building with glass windows facing the harbor and the concept, whether there was anything left of a historic nature after various sidings were approved, et cetera. This particular sliding door that was installed at the back rear of the garage had to do with some construction concerns, which are shown in the photos, which were a siding clapboard that were just falling off the rear end of the building. They found that there was stucco in between walls. There are several photos that show that to renovate that building based on what the historic board approved, but for that rear window, was necessary because of from rotting materials, removing the stucco that was wet and collapsing and crumbling and the like. The window put on the back end of the garage initially was not demonstrated ;. It was not shown on plans because Mr. Marshall, as he testified to previously, decided that the garage was very small for his vehicle and that he wasn't going to be using it as a garage, but as a weight room or some other type of accessory use. And felt it necessary to have some kind of a view to the water and placed the same type of door that the board previously approved on the south end of the first story and second story addition to the building, so that it would have some similarity in the viewing. In our opinion, the board established what was considered appropriate for that neighborhood from a street side, which we have a picture of. It's a two-story building. And back in which is only viewed from the harbor, shows all the windows on the main house that they approved, but for the

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garage. In light of what is a historic fabric, which was very little left, they're referencing of a standard nine; that the new work would not or should not destroy historic materials that would be compatible with massing size and scale. There was very little to destroy with respect to that window. The window, also the door, sliding doors, is a third window or door to that garage. So, it's not a code issue with respect to egress and regress. It was more of a decorative concept. That being said, if you're looking at their internal standards, they are inconsistent when you view the entire project. It seems to me, as I stated in my memorandum, there was a level of frustration that was stated by the board with regard to seeking forgiveness rather than permission. But I feel that their denial is arbitrary in a sense; it doesn't meet the standards that they used with the entire building. And I don't understand and I don't believe there's anything in the record that can substantiate why the board chose to deny the application. The application was actually denied based on the design of what went in when that was previously approved for the rest of the building itself. The board voted unanimously to deny the application, but it is fundamentally inconsistent with everything they approved in particular, to that site. And if one were to look from the harbor, right now, one would see something very consistent with the rest of the neighborhood from that side, also from the street side. And yet they denied it. That's the reason in my indication that it should be overturned because it is arbitrary, capricious and internally inconsistent with the entire project design that was approved.

ACTING CHAIRMAN BURKE:

I don't know that we need to get into why the work was done without approval. I don't think we need to do that. I think we're just here to determine how the decision was made after the door was installed and to see if in fact, to your point, there was a procedural error, because of the work was done without approval. Is that your position?

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ATTORNEY REGO:

On both the May 1 meeting, I believe there was a site view after the fact. The board wanted to see what was there because we had some photographs that were taken in the wintertime, and it really wasn't quite clear. Both episodes, what was mentioned was, why didn't you come and ask for permission rather than forgiveness? The answer was because the design changed with the deteriorating condition and the doors were there, and they were placed in another location.

ACTING CHAIRMAN BURKE:

I'm trying to get to the point where I don't think it's relevant. I think what's relevant is how the board made the decision and why they made that decision that the door isn't appropriate. That's what you're appealing. You believe the door was appropriate, but for your reasons and they did not approve the door for the reasons that they put in their decision. That's... it doesn't matter whether it was put in without approval or not to us.

ATTORNEY REGO:

The observation I would make to that is just stating a standard doesn't necessarily indicate you've provided reasoning to support that standard.

ACTING CHAIRMAN BURKE:

In which standard are you citing Mr. Rego?

ATTORNEY REGO:

Standard 9, they raised standard 9 and 10. Ten has to basically do with, if an addition, or something, is reversible or could be reversible, it goes to the historic nature of the question. And nine is whether the work that's there would not destroy historic materials that are compatible with massing size and scale. When the board had already approved all of that criteria, for a view of the water, when there was never a view of the water in the main existing building. The

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standard was referenced that it could be viewed from the harbor. And if that is a criteria from the streetscape, with the board approved like two story building, out to the harbor. When you look at all of those buildings, this building, this garage before the changes had no view of that harbor. So, it's totally incongruous with the rest of the harbor street scale if you were to view it now. You have picture windows, not the picture window all the way on that cove area because that's what the entire neighborhood appears. So, what was done is totally, in our opinion, consistent. I cannot rationalize why I feel that the board's decision is inconsistent with what they determined to be appropriate for the main structure but not appropriate for a garage. This is not a garage. This was to be used with a different type of use. It is not within the historic pervue.

ACTING CHAIRMAN BURKE:

Do you have any other questions? Step forward. I guess we'll hear from the council for the town. Thank you.

ATTORNEY DAVID MARKS:

Good evening. I'm still David Marks. So again, I'm not here to advise the board in any respect. I'm here just to advocate for the HDC. As the solicitor mentioned, I just want to focus on the standard of review for one moment. So, the zoning board of review shall not substitute its own judgment for that of the commission, but must consider the issue upon the findings and record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error, or lack of support by weight of the evidence in the record. So as this solicitor explained, this appeal is not a do-over from the historic district commission. It's also not the forum to decide whether we might agree that the sliding glass door is historically appropriate, or if it doesn't matter because there's a sliding glass door right next to it. All we can do here is look at the record, And I would argue if there's any basis in the record

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that supports the denial, this board should affirm the HDC. So, the appellant says that the commission acted inconsistently because they approved a sliding glass door for the main house, but they denied approval for a sliding glass door on the historic garage. The problem with this is that as members of the zoning board know, a prior approval does not entitle an applicant to future approval. Every application has to go on its own merits and is context dependent. So just the same way, if a restaurant came and got a variance for four parking spots, that wouldn't entitle the restaurant next door to come in and say, "We deserve this as well. You just gave it to the restaurant next door." Every application goes on its own merits. So, what then is the difference between the application for a sliding glass door on the main house? And a sliding glass door on the historic garage? The record tells us the difference. So, the first difference that the board specifically found in the record is that a sliding glass door... The main difference is that for the main house it was new construction, it was a modern addition, it was a complete overhaul of the structure. So, the board found that while a sliding guest door would be appropriate for new construction, it would not also be appropriate for a historic garage. This is mentioned several times in the record and especially on the site visit. Members noted that while similar doors are more appropriate for a modern addition, it is not appropriate for an existing garage. So again, just because there is one sliding door here, doesn't mean there could be one here. If it's more appropriate for the modern addition that is done here, that doesn't mean it also gets to come in in a historic garage. Um, also the standards that the commission follows bear out the same result. I'm going to note standard number three, which says that each property will be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties will not be undertaken. So, the HDC is specifically prohibited from making a new addition appear

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that it is historic. So, a new addition, new construction, the board will not let it try to pretend like it's historical. So, the main house had that new addition; the garage did not. Also, standard nine: it says new additions, exterior alterations, or related new construction will not distort historic materials features or spatial relationships that characterize the property and; the new work will be differentiated from the old and will be compatible with the historic materials. So again, the new work being the main house that should be differentiated from the historical elements. Also, I think you'll find in the record that the commission considered what the different purposes were for these two applications. So, the application for the new addition in the record it says the appellant said that he wanted to make the house more appropriate for modern living standards. So, the HDC had to consider what the purpose was. Where, okay, is a sliding glass door or a door on the back of new construction; is there consideration to be made for what the purpose of this addition is? On the other hand, for the sliding glass door on the garage, the applicant stated that the door was added for light in the garage building, which will be used for a weight room. So, you can see how the purpose of adding a door to the back of the house in the main house was distinct from adding a sliding glass door that was just for light and to let light and air in. So, as the commission notes several times, they could have easily achieved that same thing in the garage with a window or something more historically appropriate than a sliding glass door. So, I think it matters what the use that they were granting is for in the main house as opposed to what the sliding glass door was going to be used for in the garage. I also want to mention, I think the appellant has said that the commission basically denied this application as a punishment for basically doing the construction before getting the approval. I would argue that the record simply does not substantiate that claim. Of course, they did ask, and I think it's only natural for a local board when someone comes in with an application. And they've already done the work. It's

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human nature to ask, "Why did you do that? Why didn't you come here?" But the record shows that they actually tried to work with the applicant, and I think five or six times different members said, "Well, couldn't you just turn the door into a window? There are carpenters here who could do that." So, I don't think the record supports the idea that this was a punishment. I think it was procedurally proper. They also note that they have to take every application as if it hasn't already been constructed, even if it has, which is the same thing the zoning board does. So, I think that's noted at least twice in the record. So just to conclude, I would bring it back to the standard of review again. We're just searching the record for any basis that supports this decision. It's not whether you or I think that the sliding glass door is fine. It's not whether reasonable people could disagree on if it's historically appropriate. It's, just whether is there anything in this record at all that supports the commission, and if there is, I would argue you have to affirm the commission.

ACTING CHAIRMAN BURKE:

Thank you Could you could you respond to, Standards nine and ten that were cited as inappropriate. Mr. Rago, so he mentioned standards nine and ten, them not being appropriate for the decision.

ATTORNEY MARKS:

I don't really understand how they're not appropriate. Well, nine says new additions, exterior alterations are related to new construction will not destroy historic materials. I think it's clear that they did destroy historic materials when they put the sliding glass door in the garage. So, I don't understand. It seems like that's easily applied and ten is new additions, and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form of the integrity of the property and its environment would be unimpaired. So, the thing is they never applied under standard ten. So, standard ten even if standard ten so I think that sure, it

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could be argued that if a sliding glass door was removed, then the essential form and integrity of the garage would remain. But I also think that the record supplies reasoning why other people would think otherwise. And the fact is, if there's anything in the record that supports the application of that standard. I think it's not for us to second guess it here, even though reasonable minds might disagree and some people might say, "No, you haven't applied Standard Ten correctly." As long as there is any way that the record does support the finding in Standard Ten, I think the Commission should be affirmed.

ACTING CHAIRMAN BURKE:

Counsel for the appellant just brought it up. I asked him which standards he thought were not applicable, and that's why I am asking you to explain why. If you think they apply, I don't apply.

ATTORNEY MARKS:

I think, I think they apply. And it also says new work will be differentiated from the old. That's another part in standard nine. So, I could see why that wouldn't allow this application either.

ACTING CHAIRMAN BURKE:

So, if we if we found that one of the standards was not applied properly. Would that be grounds to deny it, Or would ... if they if all the other standards were applied and one did not apply, would that be grounds for us?

ATTORNEY MARKS:

No, because I think the other standard would still apply. But I. Just want to emphasize that even if you found that the clear error standard essentially means that no one, no reasonable person anywhere, could agree with the commission. So that's a really high bar. You, would you would not only have to say that we all agree that standard ten wasn't applied, you would have to say, it's our firm conviction that there is no one who would agree that standard ten applied.

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ACTING CHAIRMAN BURKE:

And that's what I was looking for, you know, articulate what it would take for us to agree that it was applied incorrectly. And if and if one of the standards was applied incorrectly and the others weren't, would that be a basis for granting the appeal? Any other comment?

ATTORNEY REGO:

Underlying all of this, One looks to evidence to the evidence. And if you look at a series of photos that had to do with The removal of siding and structure of the garage, and whether that garage had any historic material in it. It was a total rebuild. The front door, if you look at the specs, was approved. The wooden doors were replaced. The side door was replaced. All the siding was replaced. Roofing was replaced material The only thing that is there is maybe. Five or six of the studs because the back wall section was removed. So, to say that this is not new construction when the other building is new construction, it doesn't follow the evidence. It does not follow the evidence. with regard to clear error, if you are looking at the record itself, the board did not talk about standard number three ;. The only thing they talked about was standard nine and ten. And I think this criteria is obviously an error as to their findings because they're incongruous. It doesn't make any sense. So, I do indicate that there is sufficient clear error, That the evidence is totally contrary, other than to a decision grabbing on to a standard indicating to the contrary, what is visible to all parties when you look at those photographs and what the board, when they went there for the site view, saw and there's a comment on one of the statements by Miss Church that says, "There really isn't nothing here that was from the original design or historic nature." And that's the reason why I believe it's erroneous. It's not in compliance with review and common sense and law. And we do ask for it to be reversed.

MR. JOHN MARSHALL:

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John Marshall, 8 Constitution Street.

ATTORNEY MARKS:

I'm sorry, and I have to object. There's a record...

MR. MARSHALL

Okay. Can you just say that there was a we changed the entire front of the garage? It went from a roll- up to now French doors in the front.

ATTORNEY REGO:

We did indicate that we I did address the doors, and that is all new to all of this.

ACTING CHAIRMAN BURKE:

So much, do you have anybody from the HDC that is going to testify or?

ATTORNEY MARKS:

No, this appeal, as I understand it, is strictly from the record. So, no. As I understand the statute, this appeal is strictly from the record without any new testimony from the H D C or the appellants.

ACTING CHAIRMAN BURKE:

And, we don't get as you pointed out, we don't get any input from the public on this. Okay.

Anybody have any more questions for either the appellant or the town?

MR. PALMER:

Maybe the town could, actually the appellant, could talk about how what percentage of the garage contains historic materials ...

ATTORNEY REGO:

The stuff that held the building up. If you look at there was a photo in there that showed the various stages of the demolition and what needed to be done.

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MR. PALMER:

Thank you. And for the HPC, Is there any standard around what percentage of building has to be historic material versus new material in order to be considered one or the other?

ATTORNEY MARKS:

No, I think it's just within the commission's discretion to decide if a structure is contributing...

ACTING CHAIRMAN BURKE:

We have somebody speaking. Please provide them the courtesy so we can understand what he's saying. Thank you.

MR. PALMER:

It sounds to me like it's new, I think its new.

ATTORNEY MARKS:

I think there might be some question as to what of the historic building remained, but the garage itself was a contributing historic building, I think built in the early nineteen hundreds, it was said along with the house. It is a contributing structure. Whether or not how much of it remained at the point they put this sliding door in, I think that's a factual finding that the board made, and we can't really disturb it on this appeal. But no, there isn't a specific standard that says this much of a building has to remain before it has no historical consideration at all. There is nothing like that.

ACTING CHAIRMAN BURKE:

I'll wait. I have some comments from my experience. Is there anything else? Can we deliberate?

Is that the next step?

ATTORNEY HADDEN:

Yes.

ACTING CHAIRMAN BURKE:

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Thank you. I'm going to respond here. Those are great questions. I have personal experience with starting a project and running into materials that needed to be replaced, but you still... It happened across the street from me. They were going to renovate a building, and it turned into a four thousand square foot structure, but they determined that they couldn't renovate. They actually had to rebuild, but they still stuck to the plans. They still recreated it the way that it was approved. It's not like, oh gee, I went in and I had to...because who decides whether or not it can be restored or not? You can go in and say, well, I couldn't restore it. Therefore, I can do this. But I can do what I want. Once you stick to a plan, if you want to change it, you go and modify the plan and make your case. Being able to just make a self determination that, oh I couldn't restore it the way it was got approved because of this reason and then go ahead and do it, that's not allowed. You have to go and get it done. To me, it's not relevant if that structure was down to the studs and you had to replace the siding and everything inside because that was the plan anyway to replace everything inside, you still have to stick with the ruling, unless you go back and negotiate something different. To me, you're obligated to restore it the way that you've presented it and it was approved. I think after the fact saying well I had to tear everything apart. That's been reviewed by the HPC and they came up with their solution. Let's go through the standards forum Mr. Hayden presented at the beginning of the hearing. Procedural error.

ATTORNEY HADDEN:

I don't think there's been any claim of procedural error.

ACTING CHAIRMAN BURKE:

I don't either. I just want to go through them and take a checklist and just say, so that you know there wasn't a clear error. I don't see a clear error based on the testimony and the meetings and the transcript of the site review. It looks to me like it was a straightforward review. Whether or

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not we agree with that decision is irrelevant. It looks like it was a straightforward review. And Mister Marks did explain the standards. I would not be telling you the truth if I understand all of the standards that the HDC has to understand, and they apply them. I do not. And I've lived in the district for most of my life. Good for them that they can do it. I can't question whether or not they apply those standards and it looks like the majority of them were applied properly and weren't questioned. To the discussion that we had before we started the hearing, if only part of the standards can be challenged or questioned, but the others cannot, we're not in a position to overturn their ruling. And granted, that's my position. Any comment?

MR. PALMER:

I agree with your assessment.

MR. KERN:

I Do not agree that this was new construction, therefore, if it was new construction, would have had to come before the zoning board.

ACTING CHAIRMAN BURKE:

Correct.

MR. KERN:

Never did.

ACTING CHAIRMAN BURKE:

Right, once again, the standards are so high to grant an appeal of an HDC decision. It would have to be really glaring, and even I would have to understand it, and I cannot. I'm going to support denying the appeal and upholding the decision of the HDC. Mr. Kern?

MR. PALMER:

I agree.

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MR. KERN:

I can't find anything with the three right criteria that they got wrong.

ACTING CHAIRMAN BURKE:

Because it's an appeal. I'd like also for it to get drafted by people that you know have a better idea of how that needs to get worded. I'm going to make a motion that we do that. To include the following. I'm going to make a motion that we request the staff to develop a decision that denies this appeal with a finding that there was no procedural error that was challenged. The board found there was no clear error in making the decision. And what's the third standard?

ATTORNEY HADDEN:

That there is no lack of support by the weight of the evidence.

ACTING CHAIRMAN BURKE:

And that the evidence there is not just more than a scintilla, but there's a preponderance of evidence that this decision was well thought out and well researched. And the resources of the town were properly allocated to make the decision. I so move. Can I have a second?

MR. KERN: I'll second

MR. BURKE: All in favor?

MS. TEVES: Aye.

MR. KERN: Aye.

MR. PALMER: Aye.

MR. BURKE: Aye. Four to zero.

ATTORNEY HADDEN:

What I wish you would do is hold your final vote in abeyance until you get the written decision, and then you'll vote on the written decision. So there can be no dispute.

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ACTING CHAIRMAN BURKE:

So that's what I meant. Councilor, and we will do a final vote on the just...

ATTORNEY HADDEN:

Your motion was to ask for a written decision such that we can make a written decision based upon those elements that you outlined.

ACTING CHAIRMAN BURKE:

Yes.

ATTORNEY HADDEN:

Okay.

ACTING CHAIRMAN BURKE:

So I'll make another motion that we review that decision and do a final vote at the July 13th board of appeals meeting. And that we continue this matter to that date.

MR. BURKE: All in favor?

MS. TEVES: Aye.

MR. KERN: Aye.

MR. PALMER: Aye.

MR. BURKE: Aye. Four to zero

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10. ADJOURNMENT:

X X X X X X

MR. BURKE: Motion to adjourn?

MR PALMER: Motion to adjourn.

MS. TEVES: Second.

MR. BURKE: All in favor?

MR. BURKE: Aye.

MR. PALMER: Aye.

MR. KERN: Aye.

MS. TEVES: Aye.

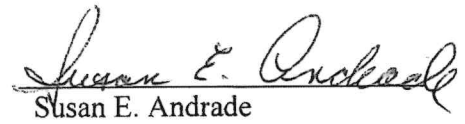
X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:38 P.M.)

01 JUNE 2026

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 01 JUNE 2026

Date Accepted: 7/13/20
Chairman: 