

April 30, 2026

VIA EMAIL AND FEDERAL EXPRESS
(etanner@bristolri.gov)

Bristol Zoning Board of Review
c/o Edward Tanner
10 Court Street
Bristol, RI 02809

Re: **Opposition to ZBR-26-12 – Application for Dimensional variances for fence height and setback requirements at 26 Brookwood Road, Bristol, RI (the “Application”) filed by Colleen Cavanaugh (the “Applicant”)**

Dear Honorable Zoning Board Members:

On behalf of my clients, Byron and Robin Connell (the “Connells”) who reside at 11 Fales Road, please accept this letter of opposition to the above-referenced Application for dimensional variances, which is scheduled for public hearing on May 4, 2026. The Applicant previously constructed a massive enclosed garden in her front yard abutting Fales Road, which was the subject of an appeal filed by the Connells of the issuance of a building permit; as the Board is well aware, the appeal was sustained, as this structure fails to comply with applicable provisions of the Bristol Zoning Ordinance in regard to both height and front yard setback. The Applicant subsequently submitted the Application as a result of these deficiencies and is now seeking relief which purportedly would cure all such deficiencies. As detailed herein, not only is the requested relief insufficient to cure these deficiencies but, for the reasons provided below, the Application should be denied for failure to satisfy the applicable criteria for the granting of such variances.

Enclosed with this letter for reference are a series of slides and photographs prepared by the Connells, with notes and annotations, which illustrate several issues and also demonstrate that the requested variance constitutes substantial relief, not a minor deviation. First, as illustrated in the attached annotated photographs provided by the Connells, the fence height is as high as 7’ in certain areas despite the Applicant representing that the fence is only 6’ in height. It does not appear that the Applicant has provided evidence to sufficiently confirm the existing fence height, but laser triangulation measurements taken from Fales Road by the Connells evidence that the fence is taller than 6’ in certain areas. Even if the requested 2’ height variance was granted, it would not fully legalize the existing condition.

Second, by both the Connells’ GIS Mapping calculations and the Applicant’s own submitted measurements, this massive fence structure is constructed approximately 7’ from the

Applicant's property line, where a 30' setback is required. This is a 76% encroachment (23') into the required setback zone. The massing of this structure, both horizontally and vertically, is wholly out of character with the neighborhood and is detrimental to the aesthetics and views of not only the Connells but other surrounding properties. Rather than scale down the size of this structure and employ alternative deer deterrence measures that are equally or more effective, which the Connells had attempted to discuss with the Applicant and even had offered to contribute financially to, the Applicant has pursued the requested relief to the significant detriment of the Connells and the neighborhood. While the applicant describes the fence as "open frame" and aesthetically pleasing, its height, massing, and proximity to the street are inconsistent with the established R-10 residential character and setback intent. Even as an open-frame structure, its scale and placement alter the streetscape in a manner the setback requirement is specifically designed to prevent, including disruption of open sight lines and visual continuity along the road. Transparency does not mitigate dimensional noncompliance. As the most directly impacted neighbor, the Connells' primary living spaces now face a structure that significantly exceeds the bulk and scale contemplated by the ordinance for residential front yards. This has a direct and ongoing impact on their enjoyment of their home and the overall character of their property. The overall visual weight and heavy-duty material (e.g., 6' x 6' posts with heavy-gauge galvanized mesh) used in the construction are more consistent with commercial agricultural use than with residential design standards.

Third, a dimensional variance requires that an applicant demonstrate a hardship which arises from the unique physical characteristics of the land (e.g., steep topography, irregular lot shape, or rock outcroppings). The Applicant's stated purpose of protecting a garden reflects a personal use preference rather than a hardship unique to the subject property. This is underscored by the unreasonably massive size of this structure, which, if intended for merely personal gardening, could certainly be reduced in both height and footprint.

Fourth, any alleged hardship, even if it existed, is self-created by the Applicant, who proceeded with constructing a non-confirming structure which exceeded even the represented dimensions provided to the building official in connection with the building permit application (e.g., the height up to 7' in certain areas exceeds the represented 6' height). As noted above, the Connells' appeal of that building permit was successful, and despite making reasonable and neighborly efforts to negotiate and even fully fund a compromise with the Applicant, as further noted in the Connells' attached slides, the Applicant instead is pursuing the Application now before the Board for review. Proposals offered by the Connells included paying for and modifying the structure to a code compliant two-tier fence system (i.e., a 4' primary fence with a simple offset 2' secondary fence which studies from Cornell University show as more effective in deer deterrence than a single 6' fence). Rather than accept a compromise and construct a compliant structure or seek zoning relief for a more appropriately and reasonably sized structure, the Applicant is seeking approval for this massive and unnecessarily-large structure simply based on personal preferences, as opposed to any demonstrated hardship. Reducing the size of this structure would be no more than a mere inconvenience.

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PARTRIDGE SNOW & HAHN LLP

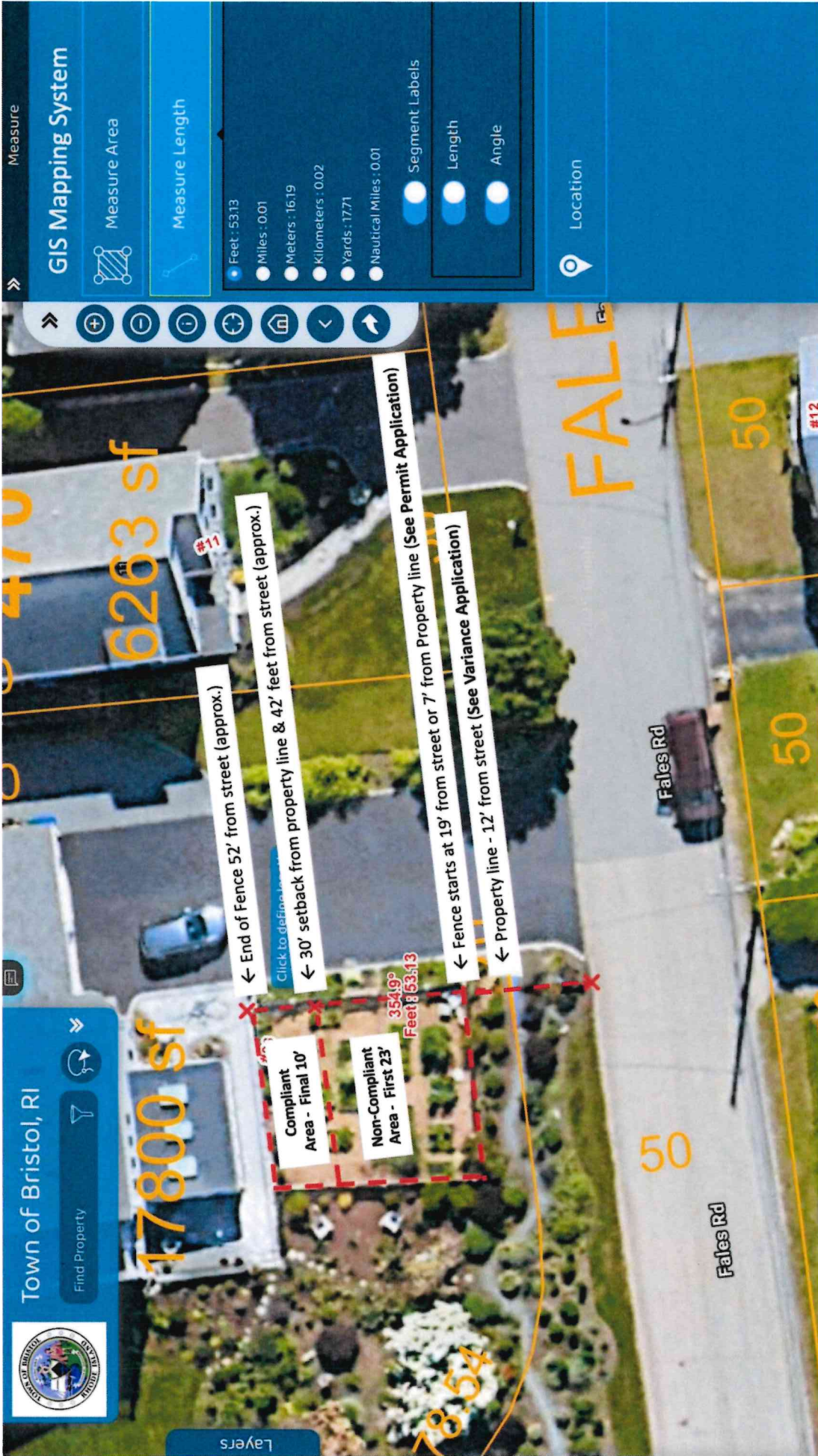
For the foregoing reasons, the Connells respectfully request that the Application be denied.

Sincerely,

/s/ Michael L. Mineau

MLM/tlc
Enclosures

4904-7595-3063

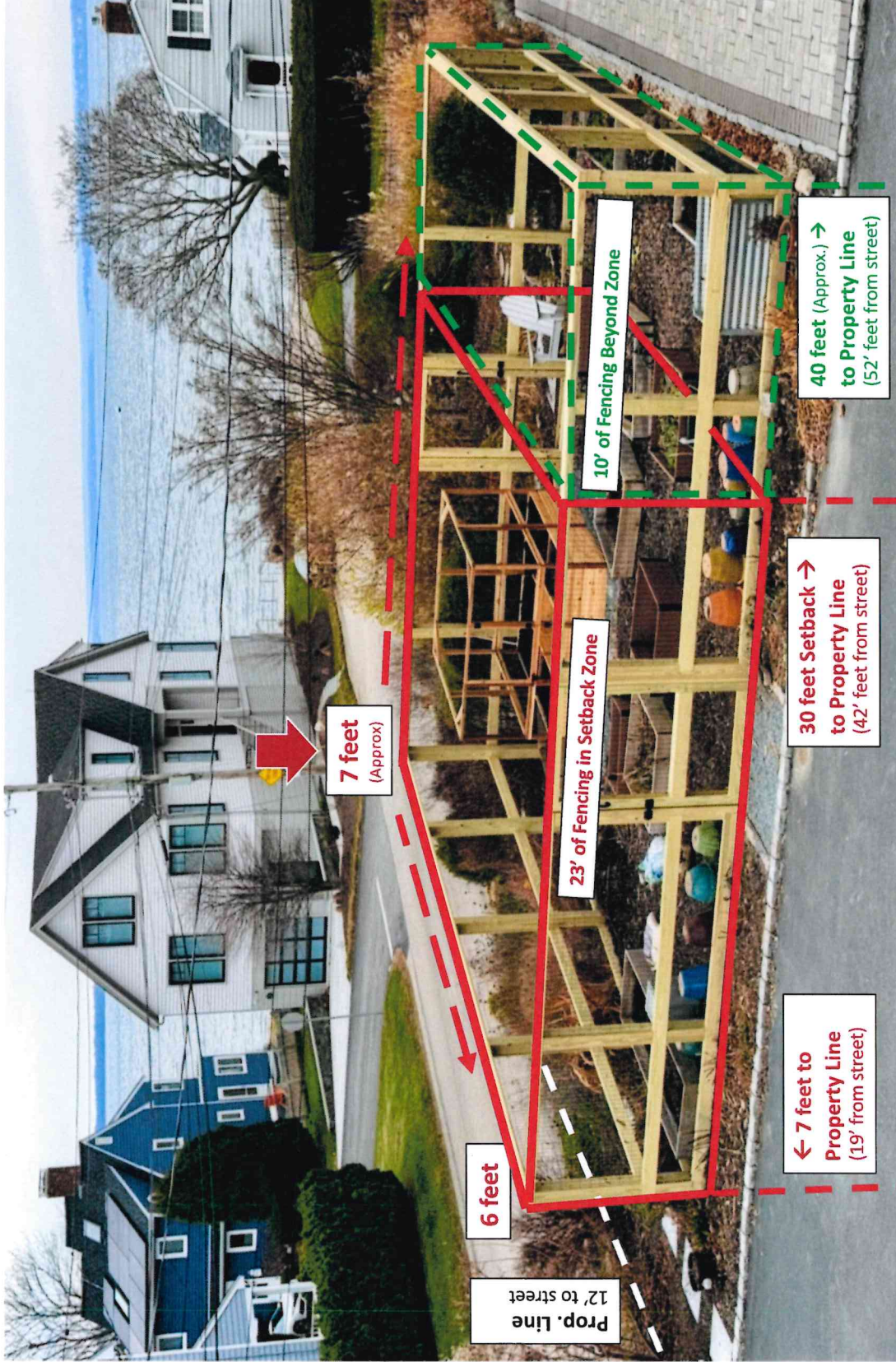


Two Clear Violations of Bristol's Zoning Code Sec. 28-146

1. The maximum allowed fence height in the 30' setback zone of 4 feet is exceeded by 2-3 feet. This applies to 2/3's of the entire fenced area.
2. Due to the chosen fence design and property grade, that drops from 20' to 16' above sea level, the maximum fence height of 6 feet in all "other front yard areas" is also exceeded. As one simple reference point, the left front corner is approximately 7 feet in height. As much as 20-30% of the fence may be above the 6' limit. *

* Height measurement is indirect and based on off-property laser triangulation - a standard technique used in survey work.

* Professional measurement was recommended by the zoning board to verify both setback and height.



Due to construction design and property grade, fence height is up to 7 feet



4-Foot Double Fence Systems

Original Proposal #2

This code complaint alternative is widely recognized as more effective in deer deterrence than a single 6' fence.

Agricultural & Wildlife research consistently show that **double-fence systems (offset)** are significantly more effective at deterring deer than a single 6-foot vertical barrier. While a white-tailed deer can easily clear a 6-foot or even 8-foot fence if they have a clear landing zone, their physiological limitations make the double-fence a much stronger deterrent.

Depth Perception vs. Vertical Height - The primary reason a double-fence system works is by exploiting a deer's **poor depth perception**.

- **The 6-Foot Fence:** A deer can see exactly where the top of a single 6-foot fence is and where the landing zone begins. If motivated by food, they will often attempt the jump and research suggests a single 6-foot fence is only roughly **50–65% effective** over the long term.

- **The 4-Foot Double Fence:** In contrast, these fences are widely cited as **85–95% effective** and often referred to as the "gold standard" for high-value crops like vineyards and small orchards. When two smaller fences are placed roughly 3' apart, it creates a three-dimensional "forbidden zone." Since deer cannot accurately judge the distance between the two barriers, they perceive the obstacle as a wide, solid mass rather than two thin lines and are reluctant to jump into a space where they cannot see a clear, safe landing spot.

* *The secondary barrier can be low-profile (as low as 24") and even constructed from inexpensive chicken-wire, single wire, plastic mesh, or basic garden fencing.*

Comparative Effectiveness in Deer Deterrence

Fence Setup	Success	Visual Rating	Tallest Obstacle	Number of Barriers	Run-up Possible	Clear Landing Zone	Depth Perception Trap	Jump Confidence	Jump Likelihood	Long-Term Success
6' Single Fence	Fair - Deer commonly attempt jumps; protection is inconsistent over the long term		6 ft.	1	Yes	Yes	None	High	High	Fair 50-65%
4' + 2' Double Fence	Good - Deer occasionally attempt jumps; generally good long-term protection		4 ft.	2	No	No	Moderate	Low	Uncommon	Good 75-90%
4' + 3' Double Fence	Very Good - Deer rarely attempt jumps; strong and reliable long-term protection		4 ft.	2	No	No	Strong	Very Low	Rare	Very Good 85-95%

* Our original offer to fully fund this compliant fence design in February, prior to the permit appeal meeting, was declined in favor of keeping the current non-complaint one.

Remove decorative top rail across the structure (with the exception of the gates) and remove two overgrown shrubs around the trellis

A simple, low cost, easy-to-implement solution

The original goal of this proposed compromise, while not compliant with zoning codes, was to soften the visual impact of the structure, and retain a full garden with equal deer deterrence.

We originally offered to cover all costs related to fence modifications and shrub removal.

Later we also agreed to cover the extra costs of adding decorative post caps, and covering extra planning and communication costs for the fence contractor -- even though the initial estimate was \$2,500 - \$3,500.

- We did not agree to pay for the fence contractor's extra "arbitration" costs as he definitely did not play that neutral role for us.
- This proposal was **rejected on Feb 17th, accepted on Feb 19th, and then rejected again on February 24th.**
- By not accepting this offer, the applicants missed the opportunity to retain a full 6-7' fence for free & avoid both the Permit Appeal & Variance processes.

* While this original proposal, prior to the permit appeal, was not code compliant it would have reduced some of the visual weight & softened the impact on sight lines.

Example

