

STATE OF RHODE ISLAND

MINUTES
THE ZONING BOARD OF REVIEW
OF BRISTOL, RHODE ISLAND

10 JULY 2023
7:05 PM
BRISTOL TOWN HALL
BRISTOL, RHODE ISLAND

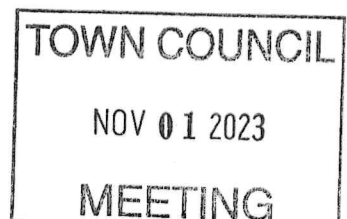
BEFORE THE TOWN OF BRISTOL ZONING BOARD OF REVIEW:

MR. JOSEPH ASCIOLA, Chairman
MR. CHARLIE BURKE, Vice-Chairman
MR. DAVID SIMOES
MR. DONALD S. KERN
MR. TONY BRUM
MR. DEREK TIPTON, Alternate

ALSO PRESENT:

ATTORNEY PETER SKWIRZ, Town Solicitor's Office
MR EDWARD TANNER, Zoning Enforcement Officer

Susan E. Andrade
91 Sherry Ave.
Bristol, RI 02809
401-253-5570



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The meeting of the Town of Bristol Zoning Board of Review was held and called to order at 7:05 p.m. by Chairman Joseph Asciola at Bristol Town Hall, 10 Court St., Bristol, RI

1. APPROVAL OF MINUTES:

01 MAY 2023

08 JUNE 2023

Chairman Asciola called for approval of the May 1st and June 8th, meetings.

MR. SIMOES: Mr. Chairman, I'll make a motion that we approve the May 1, 2023 meeting...

MR. BURKE: Excuse me, Mr. Chairman, also, I made some requests for some changes, and I believe the changes will be made. Like, I was left off the cover sheet, as example

MR. SIMOES: I make a motion that we accept the June 8th meeting.

MR. BURKE: Second.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Approval of minutes continued)

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SITTING AS THE BOARD OF APPEALS

**2. 2023-20
BARBARA J. & ROBERT A. BEER**

**825 Hope St. : W HDO
Pl. 5, Lot 17**

Appeal of a decision of the Bristol Historic District Commission (HDC) denying the use of PVC trim materials on the exterior of the existing residential structure.

Mr. Tanner explained they were in receipt of a letter from Attorney Al Rego on behalf of his clients, asking to withdraw this appeal.

X X X X X X

MR. BURKE: Mr. Chairman, I'll make a motion to accept the withdrawal for application 2023-20 with prejudice.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Appeal withdrawn)

SITTING AS THE BOARD OF REVIEW

**12 Brookwood Rd.: R-10
Pl. 22, Lot 183**

Mr. Tanner stated that a letter dated June 23, 2023, from Mr. and Mrs. Leeser asking to continue this matter one more time, they still have not been before the TRC and Planning Board. He thinks if the Board continues to September, it moves ahead.

MR. BURKE: Mr. Chairman, I'll make a motion that we do continue it to September, but with a condition that this be the last continuance that we grant without denying, or them withdrawing the application.

MR. BURKE Aye.

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MR. SIMOES: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition continued to September)

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4. **2023-24**
 LUANN PEZZULLO

471 Metacom Ave.: R:15
Pl. 51, Lot 8

Special Use Permit to keep non-domesticated animals (10 chickens and 4 goats)
on a residentially zoned property.

Attorney Bruce Cox on behalf of the applicant presented the Petition to the Board. He stated that there is a requirement from the TRC that they supplement the packet, specifically as it relates to the location of the accessory structures and their distances from the boundary line, or the proposed distances from the boundary line. Mr. Cox continued to state that he represents Luann Pezzullo and her granddaughter, Ariana, and the great grandchildren, who are living at 471 Metacom Avenue. It's not his practice to come before the Board asking for forgiveness versus permission, but timelines didn't permit that. Ariana and her husband own 1362 Hope Street and, unfortunately, are in the middle of a divorce. On Friday, March 24, 2023, the Family Court ordered Ariana to vacate 1362 Hope Street. A bit more than a week later, which was April 2, 2023, she had to move, including her animals. So that was a bit of an emergency situation, having had only a week to move. Pets are considered property under RI Law and there is a Superior Court decision stating that very fact. So, on March 31st, that's when John Lannan assisted in relocating the animals up to 471 Metacom Avenue. That's why they are before the Board. Obviously, a Notice of Violation was put forth; however, putting things together in that timeline was not easy. They have appeared before the Planning Board's TRC on July 6th and received a favorable report, which he believes the Zoning Board has received. The TRC felt that this is compliant with the Comprehensive Plan. They recommended that the Petition be granted, but they pointed out that the applicant is asking for more animals than is allowed in the Zoning

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Regulation, subject to Special Use Permit. They believe that these are domesticated goats, small goats. In the new packet it shows the relocation of the accessory structures, which shows that they will be 40 feet from the southern boundary, which he believes that neighbor is in favor of. And they are, in some instances, greater than almost 100 to 200 feet from one of the neighbors that are not in favor. They are also amenable to the idea that there may be some desired fencing, or other screening to make it so that it's not visible from the abutting area. They have to apply for the Special Use application. This is allowed under 28-150(e), using the Standard for Non-domesticated Animals. It is allowed so long as the animals are at least 40 feet, and they have a double sized lot where the animals are located on. Mr. Cox supplied the Board with a site plan developed by Mr. John Lannan, which was marked as Exhibit A.

Ms. Ariana Pezzullo, owner of the animals, having been sworn, explained that she had to relocate quickly. She had goats and chickens on her family farm on Hope Street. One of the goats she has had since it was 5 days old, grew up in the house, sit on the couch and watch TV with her kids. These goats are a comfort not only to her children, but they also travel to other locations for children to enjoy. They weigh about 60 pounds each; one of them is special needs. There are also chickens who also lived in the house for about 6 to 8 weeks. These are her children's pets. She is working on potentially finding another place to live, but she needed to relocate quickly and doesn't have access back to the Hope Street property, which meant she could not tend to the pets. When she first moved to the Metacom Avenue location she did have roosters, but they're gone now. They were allowed at the Hope Street location but not on the Metacom location. It did take time to relocate them, but they are now at Mt. Hope Farm.

In response to questioning by Mr. Cox, Ms. Pezzullo confirmed that in terms of maintaining the animals she does have services with Reliable Pest Control, same as they had at

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the Hope Street farm. They come out and bait and check to make sure they don't have any critters around. She keeps all of the food contained. The Goats don't get grain, they only get hay. And all of the chicken's food is kept in metal containers; and at night everything is pulled up. Either its hanging or its secure; so, there's nothing that is going to attract anything.

Mr. Cox stated that information is in Exhibit B in the packet received.

Mr. Cox asked if in terms of how the goats interact with people and children, there is information from Anna Perry as Exhibit C.

Ms. Pezzullo explained that Anna owns the Garden Playschool, and she has farm animal week and different times that she looks to have animals come out and interact with the children.

Ms. Pezzullo explained that her children are receiving family counseling also at this time by Dr. Bliss and a therapist with the practice. These animals are pets, and her children are involved with their treatment, and this also helps with their sessions.

Mr. Cox presented a letter dated July 7th from Dr. Bliss relating to the counseling she was giving to the children and her professional medical opinion that it would be detrimental to the children if the animals were removed, marked as Exhibit D.

Mr. John Lannan, having been sworn in, explained that he prepared the packet marked as Exhibit A. Mr. Lannan stated that he did provide the measurements from the approximate boundaries, as he is a site contractor by trade; and confirmed that it represents where everything is going to be, which is far beyond the required setbacks. He stated that once the plans are approved, he will be assisting in the relocating of the accessory buildings and the landscaping improvements. The accessory structures are not large, one is a 10' x 10' shed and a 4' x 8' shed. He reviewed the plans with the Board in detail.

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At this time Mr. Burke disclosed that he had known Mr. Lannan for over 50 years and that he has had real estate dealings with Ms. Pezzullo in the past. He does not believe that his relationship with either party with impact his ability to hear this application.

In response to questioning by the Board, Mr. Cox clarified that they don't want to make a representation that this situation is strictly a limited time issue; they don't want to put the Board in that position. There is no provision within the Regulations, they don't want to make that representation. There is no plan currently, but its her grandmother's house and the great grandchildren are there. He has no idea where they might end up in the future.

Mr. Burke asked Mr. Lannan if he was aware of a fairly lengthy complaint and asked if in he or the applicant have been response to those concerns.

Mr. Lannan stated that to be fair, they had their TRC on Thursday or Friday. About an hour and a half after that meeting he received an e-mail with that letter; so he did read it, it was the only communication that he had. He does try to address problems and he can state that this is not planned to be a farm; there's no crops being grown. You will see a tractor that has the lawn mower and other implements underneath it; but is only a result strictly of the Court Order to get her stuff off the farm. It has not moved since they were put there, and the plan is that there was an equipment appraiser appointed by the Court and there is a settlement to be had and the equipment is not there for farming purposes and will be removed once things are settled through the Court. It's strictly the shed for the goats and the chicken coup. He stated that with everything happening so fast, there was no time to go door to door and address any concerns that there might be.

Mr. Cox stated that they were made aware of the complaint by virtue of the Notice of Violation that was sent to Ariana by Ed Tanner. The Notice of Violation arrived and

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was due to a letter or e-mail that was sent, and he had not seen that e-mail and they are willing and able to address the concerns.

Mr. Tanner stated that what precipitated his issuing a Notice of Violation he doesn't think is part of this record. The most recent letter from one of the neighbors was submitted to the Zoning Board and is in the record. If the Board or Solicitor feels that the several e-mails and notes from phone calls are relevant, they can be added. After several phone calls and e-mails he went to the property and issued a violation. The owners answered the violation by applying for a Special Use Permit. They were told to remove the animals or apply for a Special Use Permit, which they did. So, as far as he's concerned, they have complied with the Notice and it's up to the Board. So, whoever sent letters, emails or phone calls, he doesn't believe is public record at this time, unless advised to do so. It was a complaint about the conditions and his answer is that they are in a zone where some animals are allowed, but it has to be heard by the Board.

Ms. Patricia Prendergast, 30 Jane Lane, next door to this property, which the backyard runs down to her backyard and her side yard. She presented photos showing the area from her driveway up to this property. The photos showed an orange tractor, which she feels is not a good look. She's been told the tractor is going to be moved, but it's been there for months. The photos also show the sheds and the fences, everything that could have been moved, but they're still visible. She doesn't want to argue with her neighbor after living next to each other for 40 years; but it's not farmland. And this is going to affect her property, her neighbors' property and they have to look at all that is there, and it shouldn't be. If it was deemed to be farmland, what does that open it up to? Can they have cows, pigs, can the neighbor next door say, well they want to do that too? She thinks it's a bad choice. It's a great neighborhood. She

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was told by Mrs. Pezzullo that Ariana was going to be leaving in September. So, if she leaves, her children are going to go with her. She's sorry that the children are going to miss their pets, but it's affecting a whole neighborhood and it just doesn't make sense. So, she is one neighbor that's against it.

Ms. Prendergast's' photos were entered into the record and marked as Exhibit 1.

Ms. Sharon Fusco, 25 Jane Lane stated that she is the person sending the e-mails and letters. Mr. Falcon and Mr. Tanner have been amazing in response, and she appreciates Mr. Tanner not wanting to name her. She did start the communications back in April when the roosters moved in. She was working from home one day and the President of the hospital she works for asked if I was working in Mexico because of the noise. She feels very bad for these people. They have a great community; six of her neighbors are present and they all do not want to fight with their neighbor. However, its very impactful in a negative way. The animals smell and she also knows Reliable Pest Control very well. Drew comes to her house, and he actually said this would be an issue. So, now she has had them come out more, because she does not want an increase in mice in the neighborhood. Chickens eat grain, the Town variance is six not ten; so they're asking for an additional exception with that. Additionally, a realtor told them that their property values will now go down with a farm being this close to the house. She thinks its unacceptable and a bad precedent to start now allowing goats and chickens. They do have a really big property on Metacom, but she thinks it's interesting that they set up all the animals at the far end of the property touching Jane Lane, instead of up on Metacom where they would have the smell. She understands that they have applied for this variance, and it happened relatively quickly; but, as Mr. Tanner can attest, they were told to remove the roosters and they did not. So, animal control had to come and remove them. They were told to apply for this variance, and

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they did not; so they were issued a letter saying the animals had to be removed. And then they applied for it on the last day. So, she's from Bristol, she gets Bristol, small Town, want to help each other out; but she also gets what's right is right. And they should be expected to follow the same rules as she would be expected to follow.

Mr. Asciola stated that everybody follows the same rules. They just happen to have a very big property and the Town has to allow this stuff to go on. If the Town allows it in the Zoning Code, and they meet the requirements, they almost can't tell them no.

Ms. Fusco asked then why are they told in the neighborhood that its not allowed and they have to apply for a special variance?

Mr. Asciola stated that it is a Special Use Permit; something that is allowed in this area.

Ms. Fusco stated that even though it doesn't smell every day, on certain days it does smell. She grew up riding horses and such, but this is a great neighborhood, and she doesn't want people to visit her and feel that they are visiting a farm.

Mr. Tom Prendergast, 30 Jane Lane stated that the thing that he is worried about is property value. He's an elderly man, not sure how much longer he has to go, and the real problem is that he's going to have to go to the Town and fight his evaluation. And he thinks others will do it also. The Town loses, basically, because he doesn't see how they can win. The second problem is that he needs to cover the area; it's unbearable to see. He had a landscaper give him a quote to put in arborvitaes and it will be quite a few; and he's concerned about the cost, but he's going to do it anyway. His question is if he gets any compensation for that and he would like Mr. Cox to let him know.

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Ms. Helen Barboza, 23 Jane Lane stated that she didn't know all of this was going on. Her property is not close enough to see any of this, but when she received the letter, her concerns were much of what has been said. One is property valuation; two is the precedent being set by allowing a variance in this neighborhood. They have in the past had a problem with roosters and they were terribly noisy; are we going to have more and more of this kind of thing. And third the issue of pests; like rodents being attracted or not. But, additionally, all of their properties about the easement on the electrical wires and that area is loaded with creatures. There is deer, coyotes, foxes; these all will be drawn to that area because their area animals in that area.

Decon Ben Barboza, 23 Jane Lane stated that he's confused by Mr. Cox's opening statements and asked if this is a temporary permit; he is under the impression it is.

Mr. Asciola explained this is not for a temporary permit, they are going for a full permit.

Mr. Barboza continued and stated that it was also mentioned that they would be leaving in September. If she leaves in September are the goats and chickens staying?

Mr. Asciola stated that has nothing to do with the issuing of the permit. They are not giving Ms. Pezzullo the permit, they are giving a permit for the animals. Mr. Barboza argued that the purpose of the animals are for the sake of the kids and if the kids aren't there why can the animals stay. Mr. Asciola again stated that the permit goes to the property, and they are not going for a time frame. The Petitioners did not bring up the time frame, the neighbors stated they heard there was a time frame; all of which is not relevant to the issuance of a Special Use Permit, which goes to the property.

Mr. Skwirz explained that as the Chairman said, when the Board grants relief, either through a variance or a Special Use Permit, its for the property and recorded in the Land

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Evidence Record. If the property is sold or rented, it changes hands, the relief follows the property.

Mr. Burke stated that to clarify; people keep saying variance. They're here for a Special Use Permit. If the Board allows the increase in the number of animals that's different. But right now they're asking for a Special Use Permit for chickens and goats, which is not a variance.

Mr. Skwirz confirmed it's not a variance. And, actually, there's been a change to the Ordinance where they could even get the number through a Special Use Permit through an official by a Finding. And to clarify, a Special Use Permit is permitted use; they consider it a conditionally permitted use. Wherein if they meet the conditions in the Ordinance, then it's allowed. If it's approved, there can be conditions put on to mitigate the impact; but it is permitted use.

Ms. Prendergast stated that she sees now that it was implied that it was temporary and its not going to be temporary. So, if it goes forward its going to reduce her property value and the neighbor's property value and asked if its worth it to the Town to get less taxes to allow this? Her house will sell for less if there's a farm next door.

Mr. Skwirz stated that just to the point, and the Case Law is very clear on this. Any testimony in regard to property values is an expert opinion and the Board can't give it weight unless it comes from a qualified appraiser.

Mr. Asciola stated that no one has said that there is going to be a farm on this property. They are not asking to have a farm; they are asking for a permitted use to have non-domesticated animals.

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Anna Cappelli Vaner, 26 Jane Lane stated she used to walk around the neighborhood and when she saw the property, she was beside herself, because the neighborhood is beautiful, picture perfect, everyone takes care of their lawns; it looks like a dump. No offense to anyone, but it does. When they were kids, they had horses and they had to rent barns for the horses; they didn't put them in the back yard and expected the neighbors to put up with it. With all due respect, she grew up in politics and with all due respect she would start a class action lawsuit if this is approved and insist that the taxes being lowered. It's all in the grey area, black and white; right is right and what is wrong is wrong. Why should other people suffer; who's going to go to therapy; everyone's got problems; my horror story is better than yours, yours is better than the next person. But you know what, property value and its respect for the neighbors. She will definitely tell the people to start a class action lawsuit because its not right. They're all elderly, all senior citizens, what do they have to put up with that up. And she's sure it will affect the votes when people go and vote too.

Mr. Domenic Franco, 467 Metacom Avenue, stated that he is to the left of Mrs. Pezzullo's south side. He doesn't see what the big deal is; he lives right there, he's the closest to them and he really doesn't smell them, and he thinks it's pretty clean. He hasn't gone over to check it out, but it doesn't bother him at all. His question is about farms, and he knows Pezzullo's request isn't for a farm. To have a farm how many acres; he has over twelve acres; if he wanted to put a farm, would it be legal? Same zone.

Mr. Asciola stated that he would fit into the Standards for a Special Use Permit. If someone meets all the Standards in the Zoning Code, it would be allowed.

Ms. Prendergast stated that she was unaware of pest control, and she has very bad allergies and reactions to fertilizers and pest control. She has not felt well since May, and she

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could show the blood work tests that she's going through with her doctor and now asks why she feels this way. She wants to go on the record saying maybe this is my problem.

Mr. Cox stated that as part of the process of this review Ms. Prendergast, who he's known for many years, because of his dealings with Dr. Alano, has concerned about visibility and the tractor; the tractor is short-term issue. It's a personal property, part of the divorce and valuation. But she's also concerned about screening, which is one of the things they have addressed early on; that if the Board wants screening, they can put up screening, whether it be fencing or arborvitae; they don't have to do it, it can be done, and it would be done. The concern about smell; the manure is removed on a semi-weekly basis and that could be stepped up to weekly. The reason why the animal control officer had to come to remove the roosters is not because Ariana was not diligent, it was because the person she where she was going to place them, that woman had COVID, couldn't come get the chickens. Mr. Prendergast had the same concern about screening and visibility; Mr. Barboza, again screening and visibility was the primary concern. He is very familiar with Jane Lane, and everyone's property are in perfect condition, and he understands the tremendous pride in their neighborhood. But you can't grant a temporary Use Permit, it does run with the land. But one thing they could put into it is that if the Pezzullo family no longer owns this property, then the Special Use Permit could expire. They don't know when Ariana is going to leave, or if she is going to stay permanently. That's not the issue, the issue is do they meet the guidelines of the Town's regulations; and the answer is that they thoroughly do. To appease the neighbors, they would add that as a condition of the Special Use Permit; that it will sunset with the sale of the property outside of the Pezzullo family. In terms of Mr. Franco, one has to look at what DEM says is a farm; and if it qualifies under DEM farm standards, it's a farm. But he doesn't know what those standards are, he didn't look at

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them, because the Pezzullos are not trying to operate a farm; they have some chickens, no roosters and four goats.

Mr. Burke stated that what he alluded to earlier, was there an automatic sunset date for a Special Use Permit, but asked that doesn't the Board have the authority to limit the time for a Special Use Permit?

Mr. Skwirz stated that in circumstances like this, where the applicant is willing to a sunset like that, he thinks they could. If the applicant was objecting to it, he would be more cautious about doing that. But, since they're willing to agree to have the Special Use Permit expire, that would be something they could agree to.

Mr. Burke stated that either they would agree, or they wouldn't get granted, could be the Board's position. He's asking, because he knows they've done it in the past; where they've allowed Special Use Permit for containers, and they have said its good for a year; some automatically two years.

Mr. Tanner stated that those timelines are specifically listed in the Ordinance, you can't have it for more than two years. Mr. Burke asked if it then has to be added to the Ordinance, or does the Board have the Authority to do it, was his question.

Mr. Skwirz stated that in this case the Board does, since the applicant agrees to it. He would be hesitant in a different circumstance if they were objecting. But the Board doesn't have to deal with that here.

Mr. Burke stated that what Mr. Cox described, he doesn't think will be that valuable to the neighbors; but they're worried about the immediate concern. So, he was just asking about the Board's ability to provide a Special Use Permit for a specific period of time.

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Mr. Brum stated that what qualifies a farm is revenue that's generated by farm activities. He is not sure, but he believes it's \$10,000 or more to qualify. So, his question would be to Ms. Pezzullo is if she is breeding and selling any of her chickens; is she breeding and selling her goats.

Mr. Cox stated that the answer to that is no. He confirmed that there are no roosters on the property. And, once again, this is not a request for a farm, it is a request for a Special Use Permit. He also confirmed that she is not seeking any revenue from what she has on the property.

Mr. Skwirz stated that the reason he would be hesitant without something specific in the Ordinance is that there was a case about five years ago in Hopkinton; there was a request for Llamas. And what the Board said was, you can keep a Llama on this property, but only you can keep a Llama on this property. It got appealed, and what the Court said ultimately, it went all the way up to the RI Supreme Court; and it said, that's not what Zoning is about. You can't grant an applicant specific relief through Zoning; you're granting with the land. Now, if an applicant wants to agree with it, they can waive any right they have and come in and agree to it. But, unless there was something specific in the Ordinance in that time frame, he would be very hesitant.

An unidentified abutter stated that she hears that they want it to go with the woman that owns the property; but the neighbors will all be dead. They're all senior citizens in that area. It's about now. If this goes through a lot of houses will be going up for sale. Because that's how south Providence became south Providence. People allowing one thing or another and there you go.

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Another unidentified abutter stated that right now it's four goats and ten chickens; are they going to limit that? Mr. Asciola stated that there will be no more and possibly less.

Mr. Cox stated that the goats are banded, which means there won't be any new little goats.

Mr. Burke stated that the neighbors don't want the Special Use Permit. The Special Use Permit reflects what's in the Town's Ordinance; its an allowed use in an R-15. It used to be also in R-6 and R-10 until the Town eliminated it because there isn't enough room. This is an almost 35,000 square foot lot. So, he doesn't know if they're in a position to reflect. Given that if they grant a Use Permit, there are goats and chickens on the property. What would the neighbors like for screening. How do they make the situation the best it can be for the neighborhood; and he didn't hear any of that.

Mr. Brum stated that he agrees and hears from what the neighbors are saying is that it's a yes or no situation.

Mr. Burke stated that then they're not getting the opportunity for the Board to help make it better for them, because they haven't expressed what would be the best situation for them, given that this is a permitted use.

Mr. Asciola again explained that this is permitted in the Town of Bristol, they are not making it up; this is a permitted Use. If they fit the Standards for Use, they have the right to do this.

Mr. Lannan stated that they would like to start off with an offer to do either plantings or fencing, starting from the Lewis property where the beautiful arborvitaes are; they could just enclose that whole are. They would put that on the table and see if anyone objected to that and it also could be added as a condition, which they would sign off on.

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Ms. Sharon Fusco stated that just for clarification. The Town allows six chickens; but for this permit it would be ten. Mr. Asciola stated it might not be ten, they haven't decided. Ms. Fusco stated that then they never allow goats, but it will be? Mr. Asciola stated that goats are allowed at three goats. Ms. Fusco explained where the animals are presently located, abutting Jane Lane, not anywhere near the Pizzulo's home. The tractor is an eyesore for Prendergast, as it is at the driveway; not up on the property where the owners would be bothered by it. So, in the spirit of being neighborly, she would think they would look to say how can they better set this up to not be so intrusive of the Jane Lane people, who have been very upset by this. Being considerate by putting up the screening and moving whatever animals they can. They could start by moving the unsightly tractor.

Ms. Prendergast stated that she would call for greenery, not fencing, if that was the option.

Ms. Kathy Lewis, 28 Jane Lane, she is the neighbor with the arborvitaes. She knows they are talking about camouflaging the best they can. Her obvious concern is that the pitch of the land, when there is heavy rain, all of the animal waste will wash right down into her yard. She also doesn't care what anybody says, but the value of their property just went down the tubes, especially hers and the Prendergast property, because they directly abut this property. It's not that they want to deny the children their pets. They've been very nice and said, oh bring the children over to pet the animals; there's an electric fence around there. Would you send your children over to play with the goats? She knows they're trying to protect their animals from the wild animals; but unfortunately, lately you see more and more coyotes. And now they're bringing in more into the area. When they all moved in and were young and had young children. But now there are other young children and grandchildren. That circle was such a wonderful

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place where the children could get up and run around the circle and no one had to worry about their safety. Now, that's not going to be a factor when they try to sell their houses. They're all getting older, over the 70s and how long do they want to hold onto a large house. Especially, like herself, have a beautiful property, but the goats are there, and it washes into the yard a little bit, but not a big problem. It's just overwhelming. They've been there for 41 years, and she loves Luann, she has known her since she herself was born and it's nothing against her or the granddaughter. She understands about the kids; a lot of children have problems, they need therapy; we've all been there, and we've all done it. But she just thinks about taking into consideration the people who have lived there for over 40 years and thinking about their sense of safety and security. She thinks that bringing in goats and chickens is only going to bring in the wild animals, which is a safety concern and creating a larger problem.

Mr. Asciola again explained that the Town is not doing this to the neighborhood, it is allowed under the Ordinance. Ms. Lewis stated she understood that, but what the Town has done in that neighborhood is decrease the value and opening up a can of worms where if you have a little bit of land, bring in any animals, as long as you take care of them, go for a variance. It's just too much; not only for just that area, but for the rest of Bristol. The goats are nice, but when you go sit out in your yard and you can see them. Ms. Pendergast can go sit out by her pool and she's got entertainment with chickens and goats running around. She just doesn't think there's been enough thought to move forward and pass this. She thinks more consideration needs to go into not only Pezzullo's perspective, but yet the neighborhood.

Mr. Lannan stated that what they were going to offer was that they would be agreeable to that buffer, green space, arborvitae or whatever and they would be willing to move the tractor. They seem to be an eyesore; they can get them out by Friday. In addition, there is a

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new plot plan showing the location of the sheds and he specifically spotted the Prendergast house. If one looks at where he is putting the goat shed, its already going to be screened by the existing shed that's probably been there for 30 or 40 years. Then they'll do a buffer. He could have his engineer go out there. It's a pervious surface, the goat pen, the chicken coup, there's grass below that area leading to the Lewis arborvitae. There's no sign of run off, he is in the business and willing to check it. He can put a small earthen berm to protect against any runoff. But its not an impervious surface. That water should go directly down. There was recently heavy rain and he's willing to check it in the morning. But he hasn't seen any complaints about runoff. And they are amenable to a complete wrap of evergreens.

Mr. Burke noted Exhibit A, the plan that shows the proposed location for the pens. Looking at the shadow, and that people have mentioned that right now the animals are being housed closer to the West side. In the plan it looks like they will be moved at least to the middle of the property, and it looks like dimensionally there's one side where there is 40 feet: but on others its 75 and 76 feet. So, this meets the setback for structures that house these animals.

Mr. Lannan stated that Mr. Burke was correct and that they were able to exceed the setbacks. The only one they actually met was Mr. Franco's and as he has testified, he's on board with this. So, they figured if they were to come close to anybody, it would be Mr. Franco. Mr. Lannan again reviewed Exhibit A with the Board in detail.

Mr. Burke noted that it seems the neighbors hadn't had an opportunity to see the exhibit and reviewed the possible screening in detail with Mr. Lannan.

Mr. Burke stated that he is uncomfortable with ten chickens, everybody wants more than six and the Board has never granted more than six.

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Mr. Skwirz stated that it used to be no more than six, but now there's a provision that says no more than six, unless the conditions of the neighborhood allow it. But generally, the rule is six.

Mr. Burke stated that he is also not as concerned about allowing an additional goat. The fact that they exist would be the reason that it would be granted. He would be amenable to allowing them to keep ten and six for a period of time, not a lengthy period of time, so that they have the ability to either lose it by attrition, find another home, or assuming that Ms. Pezzullo is going to leave at some point and hopefully take those animals with her since they are attached to her children. So, he was thinking of granting a Special Use Permit for six and three with the condition that they can keep the additional goat and four chickens for a period of six months.

Mr. Asciola stated that in regard to the chickens he doesn't believe they should have more than six because it is not allowed anywhere else. The goat is a small goat and they have been together, how do you get rid of one goat.

Mr. Brum stated that he would not be against a stipulation for an extended goat for a certain period of time. But, at the end of the day what they're trying to do is prevent an impact on the neighborhood while yet following the Ordinance.

Ms. Pezzullo stated they are all four miniature goats and presented two photos of the goats to the Board and marked them as Exhibit E.

Mr. Cox stated that this fits squarely within the Special Use Ordinance, they meet them and they are trying everything they can do to accommodate the neighbors; they are putting berm to make sure there's no downhill flow; they will be putting in arborvitae, if that's requested to screen the corner there so the visibility to the Pezzullo lot will be blocked from Jane Lane; the

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sheds will be moved so that they are compliant with the Zoning Ordinance; the tractor will be moved as quickly as it can be started and moved away from the Prendergast property.

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MR. BURKE: Mr. Chairman, I'll make a motion associated with file number 2023-24, the applicant is LuAnn Pezzullo, 471 Metacom Avenue. The applicant has come before us requesting a Special Use Permit to keep chickens and goats on the subject property. My motion is to grant that request for six chicken hens and four goats. This Special Use is specifically authorized by the Zoning Ordinance per Table A of specific uses allowed in this case with a Special Use Permit in the R-15 zone. In fact, this lot is more than double the minimum size of a lot in R-15. The Special Use Permit meets all the Standards set forth in the subsection of the Zoning Ordinance, Section 28-150. The animals and their shelters must be kept a minimum of 40 feet from all lot lines. The Board has been provided with a site plan that meets or exceeds that requirement. No animals or their quarters may be kept in the front yard. They will not be. No more than three non-domesticated animals, or non-household domesticated animals may be kept on any one property, except that up to six chicken hens may be kept on any one property. As part of the granting of this Special use permit, the Zoning may allow more animals if neighborhood conditions are appropriate. Our finding is that the fourth goat is no burden on the

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neighborhood beyond the three that are allowed by the Special Use Permit. The granting of the Special Use Permit will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan of the Town of Bristol. The Planning Board has reviewed this application, via the TRC, and has made a recommendation that it be approved with a site plan. The condition of the Special Use Permit is that the tractor that is currently on the property will be moved out of sight of abutting neighbors and the two housing structures for the goats and the chickens will be screened with vegetation, or arborvitae on the North and Westerly sides. I so move.

MR. TANNER: Before you vote that the arborvitae, or the screening, that some type of time period. Something that I can enforce.

MR. BURKE: Yes, let me ask the applicant.

MR. LANNAN: I'm not an arborist, but July might not be appropriate, but first available planting, it might be Labor Day. It will certainly be done within this calendar year, promised. However I can word that, I'm not sure I can plant in July.

MR. BURKE: September 15th, I so move.

MR. SIMOES: I'll second.

MR. ASCIOLA: All in favor?

MR. BURKE: Aye.

MR. SIMOES: Aye.

MR. KERN: Aye.

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MR. BRUM: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

10 JULY 2023

**5. 2023-25
MARC J. MEDEIROS**

**15 Annawamscutt Dr.: R-10
Pl. 159, Lot 920**

Dimensional Variance to construct a 6' privacy fence adjacent to Rosedale Drive at a height greater than permitted within the front yard on a corner lot.

Mr. Marc Medeiros and Ms. Betsy Medeiros presented the Petition to the Board. Ms. Medeiros explained that they are asking for a fence on the Rosedale end of the back yard, which they are asking for a six-foot fence. A backyard neighbor, Carol, says it's okay with her if they are granted the permit. And it's 62 feet away from the corner of the property line, so it will not cause any vision or problems on the corners. From Annawamscutt to the fence would be 62 feet.

The Board reviewed the plans in detail with the applicant. Mr. Burke questioned whether they could have a six-foot fence and have vehicles drive in and out. Mr. Tanner stated that the Zoning Ordinance does regulate vision clearance at driveways with fences and it says that the fence can't be higher than three feet or it has to be visible within ten feet of the road. Ms. Medeiros stated the fence will be ten feet back from the property line, you have ten feet and the gate and their property. So, once they come out, they will have ten feet to the road. Mr. Tanner stated he always interpreted it to be to pavement; so, as long as the fence is at least ten feet back off the pavement, that should give them enough room to drive out and look and be able to see.

In response to Mr. Brum's questioning of a curb cut, Mr. Tanner stated that even if there is not an actual curb, once you install a driveway, that takes away from the area that people can park. If they get a curb-cut permit from the Town and create a driveway there, then it becomes a driveway that's subject to the Ordinance. If it's just an occasional gate that someone uses

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occasionally to get to their back yard, he's not sure this section of the Code would apply. There was no gate shown on the plan, he was just thinking it was a six-foot wood fence. Mr. Brum stated that he only brought it up because it's not uncommon for a corner lot to use a second entrance into a lot. In this particular case, there isn't an actual driveway there, then they're taking the homeowners' word for the fact that there's vehicles. He just wants to substantiate the fact of whether they're actually allow multiple or one driveway. Mr. Tanner stated that the Zoning Code of Bristol does not regulate driveways. You can have as many as you want, as far as Zoning goes. The only Code he knows of is if you want to install a new driveway has to get a curb-cut permit from the DPW, which goes through the Council as well.

Mr. Medeiros stated his reasons for having the six-foot fence is that he has a pool in the back yard, a little dog and grandchildren that play back there. And there are coyotes in the back yard that he wants to keep out.

Mr. Paul Lapre, 19 Annawamscutt Drive spoke against the Petition and stated that he has no issue with a gate, they're good drivers. His issue is the construction on the corner and for people who aren't good drivers. He had some bushes in his front yard that were less obstructive than the fence and he had to take them out. His concern is that people that don't drive that well, they go around the corner, and you got someone else coming around the other way that that's going to be a problem because of the distance from Annawamscutt to where that fence protrudes out towards Roosevelt. He is for the fence, he doesn't think it looks bad, not worried about them causing an accident, not worried about anybody in the neighborhood who lives there causing an accident. He's just concerned about if there is an accident, maybe nothing is going to happen, but if there is, how Bristol will be influenced to do something about it. Therefore, in the future you would have to put up a Stop sign on Annawamscutt Drive.

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Mr. Asciola stated this will be 62 feet away from the corner and any site distance is a lot less than that.

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MR. BRUM: Mr. Chairman, I'd like to make a motion to approve file number 2023-25, the applicant, Marc J. Medeiros is requesting a dimensional variance to construct a privacy fence adjacent to Rosedale at a height greater than permitted within the front yard on a corner. With my motion to approve, I'd like to add two special conditions. The first condition is that there is a 10-foot clearance from the road if any gate is placed on the Rosedale side of the property. My second condition is that the four-foot fence that is currently existing be maintained on the abutting property. The hardship from which the applicant seeks relief is due to the unique characteristic of the subject land. As noted, the applicant lives on a corner lot, which is a unique situation. He's required to maintain two front-yard setbacks, which can impact the use of this property. He did not lay out the plan for this development, nor did build this home, this home had originally existed before he purchased it. So, it wasn't by any direct impact to himself that he created this situation and placed the house on the lot, as it is currently placed. He doesn't stand to gain any financial.... He has no financial gain in this situation, other than an expense, but to provide his family additional security. As stated, as Mr. Medeiros put into record,

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there are grandchildren and other family members that frequent the house. A six-foot fence would provide additional security for those younger members of the household. As we know, the unique characteristic of the land, as a former, lot does allow the opportunity for the children or animals to run out to the road on two sides. Because, now this house has two front yards, as opposed to one. So, the need for a six-foot fence is not at all outside the normal requirements of any family within the Town. The Dimensional Variance won't alter the characteristic of the surrounding area or impair the intent or purpose of the Town's Comprehensive Plan. Fences in this area, it's a well populated suburban neighborhood, where you expect to see fences for pools, for pets and for the use of the fence, to guard off a section of the property. By offering this relief, we are not offering any relief in excess to what is normally requested by applicants. And it is in my opinion to be the least relief necessary. If we were not to allow this, it would be more than a mere inconvenience, because Mr. Medeiros wouldn't be able to enjoy his property as he would like to. Nor would he be able to offer the security to his family as he would like. For those reasons, I make a motion to approve.

MR.SIMOES: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

MR. SIMOES: Aye.

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MR. KERN: Aye.

MR. BRUM: Aye.

MR. ASCIOLA: Aye.

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(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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6. 2023-26

RICHARD J. and MOLLY M. VACURA

117 Peck Ave.: R-10
Pl. 61, Lot 18

Dimensional Variances to modify an existing single-story attached garage and mudroom into living space and to construct a 10' x 38' single-story living area addition to the rear of an existing single-family dwelling with less than required left and right-side yards.

Mr. Richrd Vacura presented the application to the Board. Mr. Vacura stated they bought the house in September of 2021. It's a 1940's Cape house. The current garage is 5.2 feet from the property line. They are going to use that same foundation from that garage and make it a living area, because the garage frankly is in bad shape, and it can't be used as a garage. The idea would be they want to expand the house and have more room, so they would convert the garage into a living area. It's still going to be using the existing foundation, so it's still going to be 5.2 feet from the property line on the west side. On the east side they are a little over 7 feet from the property line; but again, that's the existing structure. On the east side of the house, they would like to do is extend the house 9 feet into the back yard with a single-story addition, that will give them more living space. They have talked to the neighbors on both sides and neither object, because it really isn't changing the footprint of the house on the west side at all. On the east side its going to be an extension in the back yard, but it doesn't encroach any closer to the property line. The addition will be slightly higher than the existing garage, but it's only one story. The house itself is a two-story house.

The Board reviewed the plans in detail with the applicant.

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MR. SIMOES: Mr. Chairman, I'll make a motion that we grant file number 2023-26 a 4 foot on the left side of the house will be four feet. And that's what it is

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now, the house itself, the garage is 4 feet; so, it's not going to protrude any further away. And the right side will be 7 ½ feet. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land. It's small and there's not that many square footages to the lot, it's a smaller lot. And the hardship is not the result of any prior action of the applicant and it's not his desire to realize any greater financial gain. By granting this requested Dimensional Variance it will not alter the general characteristics of the surrounding area. The relief requested is the least relief necessary and it will give him more square footage in the house and more living space. And the hardship that will be suffered by the owner of the subject property would be more than a mere inconvenience to the applicant. By not giving him this here, it would be a smaller house, and this here would give him that extra space that he needs for a growing family. For those reasons, I move that we grant this Dimensional Variance.

MR. BURKE: Mr. Chairman, before we vote, I'd just like to ask Mr. Simoes to mention that it's a 10-foot side yard requirement, not 15. Because it's a reduced lot, it's a non-conforming lot. So the relief granted it would be at 10 feet, not 15.

MR. SIMOES: Ok.

MR. KERN: I'll second that motion.

MR. ASCIOLA: All in favor?

MR. BURKE Aye.

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MR. SIMOES: Aye.

MR. KERN: Aye.

MR. BRUM: Aye.

MR. ASCIOLA: Aye.

X X X X X X

(THE MOTION WAS UNANIMOUSLY APPROVED)

(Petition Granted)

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7. ADJOURNMENT:

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MR. ASCIOLA: Motion to adjourn?

MR. KERN: So moved.

MR. SIMOES: Second

MR. ASCIOLA: All in favor?

MR. SIMOES: Aye.

MR. ASCIOLA: Aye.

MR. KERN: Aye.

MR. TIPTON: Aye.

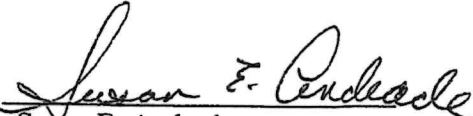
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(THE MOTION WAS UNANIMOUSLY APPROVED)

(MEETING ADJOURNED AT 9:15 P.M.)

10 JULY 2023

RESPECTFULLY SUBMITTED,


Susan E. Andrade

TOWN OF BRISTOL ZONING BOARD
MEETING HELD ON: 10 JULY 2023

Date Accepted:

Chairman:


7/10/23