

**BRISTOL ZONING BOARD OF APPEALS
MINUTES
REGULAR MEETING OF TUESDAY, FEBRUARY 1, 2022**

CALL TO ORDER:

By: Chairman Rafaniello

Time: 7:00 P.M.

Place: City Hall

ROLL CALL:

Chairman Rafaniello called the meeting to order at 7:08 P.M.

MEMBERS	NAME	PRESENT	ABSENT
REGULAR MEMBERS:			
	Jerald Rafaniello (Chairman)	X	
	Jeffrey Twombly (Vice Chairman)	X	
	Richard Raymond	X	
	Alfred Radke, III		X
	David Pecevich (Secretary)	X	
ALTERNATE MEMBERS	Rory Ghio	X	
	Tim Adamaitis	X	
	Richard Balsam	X	
	Edward Spyros, Zoning Enforcement Officer	X	
STAFF	Robert Flanagan, AICP, City Planner	X	

Chairman Rafaniello inquiries: Commissioner Adamaitis explained he was not able to get the audio on his cell phone today and his laptop was not working, so he was unable to review the recordings for Application #3778.

Chairman Rafaniello reminded the Commission the next regular meeting of the Board was on March 1, 2022.

PUBLIC HEARINGS:

1. Application ##3778 – Variances of 1) minimum front yard to allow house (main structure) within the setback area and 2) to allow entry stairs to extend more than three feet into the required front yard at 86 Fifth Street; Map 38, Lot 50; R-10 (Single-Family Residential) zone; Jason Gorneault, applicant – (Public Hearing continued from January 4, 2022).

Chairman Rafaniello designated regular Commissioners Raymond, Pecevich and Rafaniello to vote on Application #3778, which reviewed the application last month. He also designated alternate Commissioners Balsam and Ghio to vote on Application #3778, which also reviewed the application last month and with the absence of regular Commissioners Radke and Twombly.

Attorney James Ziogas, 104 Bellevue Avenue, representing the applicant, explained he was not at the meeting last month or at the beginning of this application. This is a corner lot on Holden St. and Fifth St. The lot is undersized at 8,550 sq. ft. There are City sewer and water services on the property. The request is for two front yard Variances. There are two front yards on Holden St. and Fifth St., but Holden St. would not be discussed.

The first Variance was a portion of the foundation (n/w corner) on Fifth St. The foundation encroaches over the 20 ft. setback line by 1 ft. 9 inches because the lot is skewed when the lot was staked and no one noticed the error. The contractor should have shifted the foundation and it was an error; the house was also skewed. There was sufficient area to shift the house back 1 ft. 9 ft. without any concern but the As-Built was submitted after the house was finished.

The second request was for the pre-cast stairs on the front of the building; the stairs are allowed to have a 3 ft. encroachment in the front yard. The need for the front stairs exceeded the requirements of the Regulations and are now at 12.5 ft. from the front property line. The stairs were placed there to meet the current Building Code to enter the house.

With the house towards Fifth St., it was a better buffer versus 8 ft. from the side yard. The Tarchini's were the closest abutters on Holden and moving the house forward benefitted them. He reviewed a prior application on Wolcott St. when there was an error not discovered until after the As-Built was submitted.

The Variance was ultimately granted because it would have been a waste if it had not been granted. He does not think the applicant intended to do this because the foundation would have been skewed to the rear of the lot. The Variance requests are for 1.9 ft. for the foundation and 4.1 ft. for the stairs.

There are occupants in the house now and it would be detrimental to them if the Variance is not granted. This was a reasonable request given the circumstances and the Board should grant this request.

The Board stated that at the January 2022 meeting, Mr. Gorneault had explained he purposely shifted the house to a different location, which was not a couple feet. This was not an accident and was intentional because he wanted to give the neighbor a buffer and to retain a few of the existing trees to the rear of the property. The Board suggested that the stairs be relocated near the driveway.

Attorney Ziogas explained the accident was moving the house over. The applicant intended to put it in the front yard, but did not intend to encroach on the front yard. The 1.9 ft. for the foundation was the accident, but they he was unsure if the stairs could be fixed without a Variance.

Attorney Ziogas explained he reviewed the original plot plans. The applicant did not try to circumvent the Regulations, but to put the house within the building envelope. The stairs and one corner of the house are over the building line. His view was this was a minor Variance compared to previous Variances granted.

Chairman Rafaniello explained the original plot plan complied after being rejected twice by the Board except for a slight error in the driveway that the Building Dept. had not discovered. At the last meeting Mr. Gorneault stated he was also the developer and admitted he moved the house. This was not an accident and was intentional.

No one else spoke in favor of the application.

The following persons spoke against the application: Christine and William Tarchini, 75 Holden St.; (also two persons inaudible in the First Floor Meeting Room and their addresses.) Among their concerns were the following: They understood Attorney Ziogas view and they were not trying to displace the tenants, but their concern was to make sure this does not happen again. This was a blatant ignorance to the Board. They did not understand how a certificate of occupancy was issued with the siding and soffits falling off and the roof was warped. Mr. Tarchini disagreed with Attorney Ziogas that this was a mistake because he was not at the previous meeting when Mr. Gorneault admitted he moved the building, which was the property owner and the builder. The foundation person was at fault, but Mr. Gorneault was the builder. So, he did not know how they could ignore this situation. They applicant also stated his family and he would be living at the residence to get the approval. It would not be difficult to find a different residence. The two inaudible persons agreed with the Tarchini's.

Mr. Spyros explained there were no conversations with the applicant regarding prior to the house that was constructed.

Richard Brown, Building Official, 111 North Main St., Building Department, explained he would be implementing a two-phase process when a foundation is constructed to provide an As-Built before any building is done for both commercial and residential applications. He explained the C.O. (Certificate of Occupancy) was issued with the oversight of not reviewing the As-Built. There were different inspectors that worked on this sign-off.

The hearing is closed.

By: Pecevich

Seconded: Balsam.

For: Pecevich, Ghio, Balsam, Raymond and Rafaniello.

Against: None.

Abstain: None.

The Board commented that they understood the house could've been constructed in the building envelope, but they could not ignore this situation. This was sloppy work and there was no excuse for this situation. There was no hardship, this issue was self-imposed by the builder. They were unsure of fines that could be assessed, or moving the house or moving the foundation back, but it can be done with at a cost. The tenants would be displaced, which was the applicant's responsibility. They were not in favor of this Variance request. This was an intentional violation of the Regulations, which were in place to protect Bristol.

MOTION: move that Application #3778 – Variances of 1) minimum front yard to allow house (main structure) within the setback area and 2) to allow entry stairs to extend more than three feet into the required front yard at 86 Fifth Street; Map 38, Lot 50; R-10 (Single-Family Residential) zone; Jason Gorneault, applicant be approved in accordance with the plot plan and information submitted.

By: Pecevich

Seconded: Raymond.

For: None.

Against: Raymond, Ghio, Balsam, Pecevich and Rafaniello.

Abstain: None.

The application is denied.

APPROVAL OF MINUTES

1. Approval of Minutes – January 4, 2022

Chairman Rafaniello designated regular Commissioners Raymond, Pecevich and Rafaniello to vote on the January 4, 2022, regular minutes. He also designated alternate Commissioners Ghio and Balsam to vote on the to vote on the January 4, 2022, regular minutes with the absence of regular Commissioners Radke and Twombly.

MOTION: Move to approve the minutes of the January 4, 2022, regular meeting.

By: Pecevich

Seconded: Raymond.

For: Raymond, Pecevich, Ghio, Balsam and Rafaniello.

Against: None.

Abstain: None.

ADJOURNMENT

Chairman Rafaniello designated regular Commissioners Raymond, Pecevich and Rafaniello to vote on the adjournment. He also designated alternate Commissioners Ghio and Balsam to vote on the adjournment with the absence of regular Commissioners Radke and Twombly.

MOTION: Move to adjourn at 7:43 P.M.

By: Ghio

Seconded: Pecevich.

For: Ghio, Raymond, Balsam, Pecevich and Rafaniello.

Against: None.

Abstain: None.

Respectfully submitted,

Nancy King
Recording Secretary

Jerald A. Rafaniello, Chairman

David Pecevich, Secretary