



TOWN OF FAIRHAVEN
BOARD OF APPEALS
Town Hall, Fairhaven, Mass. 02719

January 4, 2011

The Fairhaven Board of Appeals met on January 4, 2011 at 6:00 PM at the Fairhaven Town Hall. Members present were: Mr. Peter DeTerra, Mr. Daryl Manchester, Mr. Albert Silva, Mr. Rene Fleurent, Jr., Mr. Kenneth Kendall and Ms. Peg Cook. The following petition was considered:

Petitioner: Scott J. Hyman 54 Bayview Avenue Plat 28A, Lot 439 Certificate #22146
198-18 10% over the maximum allowed lot coverage of 30% in a RA District
198-22 Short 5' of the required 5' setback for an accessory structure in a RA District.

This is a continued hearing from December 7, 2010. Motion to open the hearing was made by Mr. Silva; Seconded by Mr. Fleurent, Jr. The vote was unanimous.

Neither the petitioner nor a representative was present for the hearing.

Motion to grant the Variance was made by Mr. Fleurent, Jr.; seconded by Mr. Manchester

Board members voting to grant the Variance: 0

Board members voting not to grant the Variance: Mr. DeTerra, Mr. Manchester, Mr. Fleurent and Mr. Kendall

The Board voted 4-0 to deny the Variance of ten percent (10%) over the maximum allowed lot coverage of thirty percent (30%) in a RA District as required by Section 198-18 of the By-Laws and five feet (5') of the required five feet (5') setback for an accessory structure in a RA District as required by Section 198-22 of the By-Laws in a RA District for the following reasons:

- 1.0 The lot is small and requires the Variance for the structure which is there without benefit of a building permit. Granting the Variance does not create a hardship.
- 2.0 Granting this relief will derogate from the intent and purpose of the By-Laws.
- 3.0 Granting this relief will adversely affect the zoning district in which it is located.

Peter DeTerra,
Chairman



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Petitioner: Stephen & Donna Hickox 172 Balsam Street Plat 43B, Lot 35 Certificate #21918
198-18 Short 8' on the north side and 5' on the south side of the required 20' side setback in a RR District.

The petition was read and there were 31 abutters notified. The petitioners were represented by David Hickox, P.E. and brother to the owner and architect/designer Eric Jacobsen. Plans were presented and are part of this record. The petitioners propose to demolish the existing 720 square foot cottage and construct a new 2,100 square foot dwelling. The structure will be compliant with FEMA requirements and will have a height of 33½'.

In Favor: the petitioners

Opposed/Questions: Mr. Denkle, 182 Cottonwood Street, reviewed the site plans to assure the structure would not block his ocean view. He had no objections to the proposal.

Motion to grant the Variance was made by Mr. Fleurent, Jr; seconded by Mr. Silva.

Members voting to grant the Variance: Mr. Manchester, Mr. Silva, Ms. Cook, Mr. Fleurent, Jr. and Mr. Kendall.

The Board voted 5-0 to grant the Variance of eight feet (8') on the north side and five feet (5') on the south side of the required twenty feet (20') side setback in a RR District as required by Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is a small lot and a Variance is required for the proposal. Not granting the Variance does create a hardship.
- 2.0 Granting this relief will not derogate from the intent of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

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Petitioner: The Betty E. White Grandchildren's Revocable Trust 2 Bluepoint Road Plat 43B, Lot 31 Certificate #22240
198-18 Short 2' of the required 20' side setback in a RR District.

The petition was read and there were 28 abutters notified. The petitioner was represented by Richard Rheaume of Prime Engineering, Lakeville, MA who stated the petitioners would like to construct a 12'x30' single stall one-story garage on the east side of the dwelling. The lot is very small and to place the structure anywhere else on the lot would block front entry to the cottage and destroy the waterfront view of abutters. The structure is needed for storage of summer goods such as kayaks, jet skis as well as for car storage.

In Favor: the petitioner Opposed/Questions: None

Motion to grant the Variance was made by Mr. Kendall; seconded by Mr. Fleurent, Jr.

Board members voting to grant the Variance: Mr. Silva, Ms. Cook, Mr. Manchester, Mr. Fleurent, Jr. and Mr. Kendall

The Board voted 5-0 to grant the Variance of two feet (2') of the required twenty feet (20') side setback in a RR District as required by Section 198-18 of the By-Laws for the following reasons:

- 1.0 The lot is small and a Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

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Petitioner: John Podrecca for Mary E. Williams 190 Cottonwood Street Plat 43B, Lot 145 Certificate #16804
198-23 Home Occupations B-4 Building Trades A Special Permit is required for a Building Trade home occupation.

The petition was read and there were 44 abutters notified. The petitioner would like to have a home office for his chimney sweep business so that he can secure a business certificate. There will be no signage or storing of any equipment. Section 23 was read and the petitioner stated he does and will continue to comply with the requirements.

In Favor: Petitioners

Opposed/Questions: Mr. Denkle, 182 Cottonwood, stated no business should be allowed in the residential area where he has lived for 30 years. He stated the petitioner's truck is a business advertisement. The petitioner stated it is a registered 10' box truck that is parked in the driveway. The family car has no advertisement on it.

Mr. & Ms. Shurtleff and Mr. & Ms. Haydon, 183 Balsam Street, in writing which was read and is part of this record.

Motion to grant the Special Permit was made by Mr. Silva; seconded by Mr. Kendall.

Board members voting to grant the Special Permit: Ms. Cook, Mr. Manchester, Mr. Silva, Mr. Fleurent, Jr. and Mr. Kendall.

The Board voted 5-0 to grant the Special Permit for a Building Trade home occupation as required by Section 198-23 B-4 of the By-Laws for the following reasons:

- 1.0 The petitioner is compliant with the By-Law requirements. Not granting the Special Permit would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Laws.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

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Petitioner: Enrico G. & Linda Picozza 182 Ebony Street Plat 43B, Lot 260,262,264,266,268 Certificate #20278
198-22 Accessory Buildings 1,402 sq ft over the maximum allowed 700 sq ft for a detached accessory building in a RR District.

This is a continued hearing from December 7, 2010. Motion to open the hearing was made by Mr. Silva; seconded by Mr. Fleurent, Jr. The vote was unanimous.

The petitioners were represented by David Davignon of Schneider & Associates, Inc. of Mattapoisett who presented modified plans showing a completely redesigned structure: the cupola is removed, the structure moved easterly and the proposed square footage of the structure now equals that of the existing structure. Therefore, the original variance requests for height and west side rear setback are not required. The total square footage of the proposed structure is 2,102 square feet and a request of 1,402 square feet over the maximum allowed 700 square feet is all that is being requested. Mr. Davignon believes the interpretation of the By-Law for square footage is ambiguous but acquiesced to the Board's interpretation.

In Favor: the petitioners and Mr. Adrega, 189 Dogwood Street, who stated the proposal will improve property values and the neighborhood.

Opposed/Questions:

Mr. Kowalsky, 185 Ebony Street, stated the garage will be larger than any house in the neighborhood and will be detrimental. Future use might turn this into habitable space or an apartment. Mr. Davignon stated sewerage and water will not be allowed in the structure per the Board of Health regulations. The structure will be used for storage, a workshop and utilities. The need for utilities is for power supply.

Questions by the Board: none

Motion to grant the Variance was made by Mr. Fleurent, Jr.; seconded by Mr. Manchester.

Board members voting to grant the Variance: Ms. Cook, Mr. DeTerra, Mr. Manchester and Mr. Fleurent, Jr.

Board member voting not to grant the Variance: Mr. Kendall

The Board voted 4-1 to grant the Variance of one thousand four hundred and two (1,402) square feet over the maximum allowed seven hundred square feet (700) for a detached accessory building in a RR District as required in Section 198-22 of the By-Laws for the following reasons:

- 1.0 The lot is small and the Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra,
Chairman