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**Fairhaven Zoning Board of Appeals**  
**Tuesday, July 6, 2021**  
**Minutes of Meeting**

FAIRHAVEN,  
MASS.

**I. ADMINISTRATIVE BUSINESS**

The meeting was held remotely via Zoom per the Governor's orders during the pandemic that began in March 2020.

Peter DeTerra opened the meeting at 6:00p.m.

**Quorum/Attendance:**

Chairman Peter DeTerra introduced the members of the Board:

Kenneth Kendall, associate member of the Board; Rui DaSilva, associate member of the Board; Peg Cook, full member of the Board; Darryl Manchester, full member of the Board; Jaime DeSousa, associate member of the Board.

**Absent:** Francis Cox, Alberto Silva and Joe Borelli.

Chairman DeTerra read the procedures of recording and open meeting law information.

Building Commissioner and Zoning Enforcement Officer Chris Carmichael was also present.

Acceptance of Minutes – Kenneth Kendall made a motion to approve the minutes of June 2, 2021 and was seconded by Rui DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

Chairman DeTerra proceeded to confirm Jaime DeSousa as full-time member of the Board. Kenneth Kendall is now the next person in line to be elevated as a full-time member. Mr. DeTerra informed that Joe Borelli spends most of the time in Florida and asked not to be reappointed, therefore appointment of a full-time member is due.

Jaime DeSousa made a motion to appoint Kenneth Kendall as a full-time member of the Board, which was seconded by Rui DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

Chairman DeTerra took a moment to thank Joe Borelli for his service to the Board, having served with Mr. Borelli on the Board for over twenty-five years. The Board extends their best wishes to Mr. Borelli as he will be missed by his colleagues on the Board. Chairman DeTerra praised Mr. Borelli for his knowledge, service and contribution to the Board.

**II. PUBLIC HEARINGS:**

1. Administrative Appeal by Fairhaven Shipyard – re: 7 Union Street. REF#: ZBA-AA 01: Seeking reversal of zoning determination by the Town of Fairhaven Building Commissioner dated February 20, 2020. (Application attached) – **Continued** from April 7, 2020, May 5, 2020, June 2, 2020, July 7, 2020, August 11, 2020, September 2, 2020, December 1, 2020, January 5, February 2, 2021, March 2, 2021, April 6, 2021, May 4, 2021 and June 2, 2021.

Building Commissioner Chris Carmichael informed the Board that a continuance was requested to August 3, 2021. Kenneth Kendall made a motion for **continuance to August 3, 2021** and was seconded by Rui DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

2. Administrative Appeal by A1 Crane – re: 86-88 Middle Street. REF#: ZBA-AA-02: Administrative Appeal from a letter dated April 7, 2020 from the Building Commissioner stating that the operation on the site is in violation of the Mixed-Use zoning regulations. Continued per applicant's request to September 2, 2020, November 3, 2020, December 1, 2020, January 5, 2021, February 2, 2021, March 2, 2021 and April 6, 2021.

Building Commissioner Chris Carmichael informed the Board that he had a conversation with the petitioner to drop the appeal, however, as there has been no conformation in writing, a continuation is requested to August 3, 2021.

Kenneth Kendall made a motion for **continuance to August 3, 2021** seconded by Jaime DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

A. Chairman DeTerra announced a continuance: 7 Delano Street. Owner: Leblanc, Karen, previously known as Karen Anderson. 198-16: Special Permit request for 5 chickens, not to exceed 6 chickens in a RA District.

At the last meeting it was determined that the landlord must to address a letter asserting his permission to the request by Ms. Leblanc, his tenant. As the petitioner was not present, and no written permission by the landlord was received by the Board, discussion among the members was had as to how to proceed on the matter.

Kenneth Kendall made a motion not to continue the matter, however, said motion was not seconded. Rui DaSilva made a motion for **continuance to August 3, 2021**, which was seconded by Peg Cook. The motion passed via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Darryl Manchester and Peter DeTerra. Mr. Kendall voted against. The matter was approved on a 5 to 1 vote.

3. REF#: ZBA-2021-021: 10 Mayflower Street, Owner: Raimondo, Marc. 198-7(B): Request an Administrative appeal of the Building Commissioner's decision that a partially constructed shed needs to meet 198-18 (note 1), which reads in part, "Corner or through lots shall observe front yard requirements from both streets." Pursuant to 198-9, requesting a Variance from required corner lot 20' side setback to proposed 8' setback.

Marc Raimondo, the petitioner appeared before the Board and explained that he would like to push the shed back, as it is in the wrong spot. He added that a surveyor was consulted and plans to put it back to 8 feet off the side property line and the back property line would stay the same.

After Commissioner Carmichael advised Chairman DeTerra that the Board's vote would override the Commissioner's Decision on the Zoning Enforcement, that he was not keeping the side setback of 20'. Mr. Carmichael explained that on a corner lot, the side setback on North Green and Mayflower, straight frontage of 20 feet from side and front must be observed.

Commissioner Carmichael further advised that a building permit was issued for this from the time of the previous commissioner, and the location was not clear, as it was a hand-drawn survey. Upon a complaint from someone, Mr. Carmichael visited the locus and determined that the shed was adjacent to the street and a "stop work order" was issued, as it was a corner lot.

Motion to approve the Variance was made by Rui DaSilva and was seconded by Darryl Manchester. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

4. REF#: ZBA-2022-001: 62 Weeden Road, Pimental, Armand & Michaela. 198-9: Variance request from the required street frontage of 140' to a proposed street frontage of 138.05' to construct a single-family dwelling.

Matt Leone, from Schneider, Davignon & Leone, Civil Engineers, appeared on behalf of the petitioner requesting re-approval of a 195 feet frontage Variance, which had been approved by the Board on January 10, 2019 and has since expired. The lot was originally created through an Approval Not Required plan of November 2006 by the applicant's father, Michael Pimental and the Zoning Board of Appeals had granted a Variance for the lot on January 2, 2007. The Board re-approved the Variance in January, 2019, but due to economic restraints, the former applicant was not able to develop the property. At that time, he conveyed the property to Armand and now Michaela in November of 2020. The property is located in a rural residence zone, which requires a minimum of 140 feet of frontage. Request is made that the Board re-approve the petition making the property a buildable lot, so the applicants may develop the property.

Commissioner Carmichael asked clarification that locus does have the 30,000 square feet zone required in that area. The upland area contains 29,930 square feet.

Kenneth Kendall made a motion to approve the request, and seconded by Jaime DeSousa. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

5. REF#: ZBA-2022-002: 6 Cherrystone Road. May, Alexander & Sheila. Pursuant to 198-9, applicants are requesting the following Variances:

From the required corner lot side setback of 30' to a proposed 20.5 setback.

From the required rear yard setback of 30' to a proposed 28' setback.

From the Maximum lot coverage of 25% to a proposed 25.7% to demolish and construct a new single-family home.

Applicants are also asking the Board for a filing pursuant to MGL 40, Section 6 that the reconstruction of the single-family home is not substantially more detrimental than the existing non-conforming structure to the neighborhood.

Matt Leone, from Schneider, Davignon & Leone, Civil Engineers, appeared on behalf of the petitioners, Alexander and Sheila May, for a house reconstruction on the referred locus. The property is 12,000 square feet in size. The existing single family ranch style dwelling is approximately 1,200 square feet and built circa 1945, per Town records. The existing home is location within the AE Elevation 14 Flood Zone and presently does not comply with the current

FEMA and Mass Building Code requirement. The applicants are planning to demolish the existing dwelling and replace it with a house in compliance with FEMA and Mass Building Code for construction within an AE Elevation 14 zone. Proposed house will contain 1,580 sq. feet, excluding 2 decks and a rear porch, with 1 ½ stories of living space. House will be constructed on a cross base foundation with an approximate first floor elevation of 17 feet, or 36 inches above the base flood elevation. Height of the roof peak will be approximately 27.5 feet. Home to be serviced by the existing water and sewer on the site. This property falls within the Rural residence zoning district, which requires 30' front and rear building setbacks and a 20' side setback. The lot borders on two streets, corner lot, therefore it has three 30' building setbacks, which includes the rear, to be complied to. The applicants' proposal requests a setback to Cottonwood Street of 20.5 feet vs. the required 30 feet, therefore requiring a 9.5-foot variance to the front setback and a rear setback of 28 feet vs. the 30 feet, therefore requiring a 2' variance from the rear setback. On the westerly side the setback will be conforming as well as the front setback along Cherrystone Road. The applicants also request an increase in the building coverage of an existing 10.1 to 15.7%, which is .7% above the maximum allowable 15% requiring a variance of .7%. Note is made that the propose building coverage for the new house will be 15%, but the existing shed, which the applicant is hoping to maintain, is what puts it over the extra .7%. The proposed lot coverage will increase from 14.5% to approximately 23%, under the allowable 25%. Applicant feels that the proposed changes does not affect the zoning district where it is located.

Commissioner Carmichael commented on the good presentation made by Mr. Leone as to the proposed project and had no further comments.

Motion was made by Kenneth Kendall to approve the request, and seconded by Jaime DeSousa. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

6. REF#: ZBA-2022-003: 7 Sunset Beach Road. Normandine, Jerry & Jennifer. Pursuant to 198-9, Variance request from the required side setback of 20' to a proposed setback of 9' for a deck.

The Petitioner appeared before the Board and explained his request for the Variance. He explained that currently the corner of the house is 11 feet setback from the side property line and the deck goes at the same angle as the property line. He wishes to replace the deck and move it over two feet to square it off, therefore the deck will be 9 feet vs. the present 11 feet.

Lawrence Silva, 5 Sunset Beach Road, an abutter. Mr. Silva stated that he is in favor of the request, explaining that the lot in question tapers and the petitioner needs this relief in order to be able to reconstruct the deck.

Rui DaSilva made a motion to approve the Variance, which was seconded by Jaime DeSousa, and which was passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

Chairman Peter DeTerra called for a vote to fill the vacancy opened by the elevation of Kenneth Kendall to full-time member, and send it to the Selectmen Board so they may advertise the post made available by the resignation of Joe Borelli from the Zoning Board of Appeals. Kenneth

Kendall made a motion to fill the said vacancy, which was seconded by Jaime DeSousa. Roll call vote was unanimous by Peg Cook, Rui DaSilva, Jaime DeSousa, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

Therefore, direct is made that a letter be drafted and sent to the Selectmen to fill the vacancy for associate member for advertising for the Zoning Board of Appeals.

Kenneth Kendall made a motion to adjourn and was seconded by Rui DaSilva. Roll call vote was unanimous by Peg Cook, Rui DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra and meeting adjourned at 6:30p.m.

Respectively submitted,

*Maria J. Carvalho*

Maria J. Carvalho  
Recording Secretary