



RECEIVED
TOWN OF FAIRHAVEN

2021 NOV 24 P 1:40

CLERK/CH.
TASS.

Fairhaven Zoning Board of Appeals
Tuesday, August 3, 2021
Minutes of Meeting

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, full member of the Board; Ruy DaSilva, associate member of the Board; Peg Cook, full member of the Board; Darryl Manchester, full member of the Board.

Absent: Francis Cox and Alberto Silva.

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 July 6, 2021 and was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

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, June 2, 2021 and July 6, 2021.

Building Commissioner Chris Carmichael informed the Board that a continuance was requested to September 7, 2021 by the applicant. Kenneth Kendall made a motion for ***continuance to September 7, 2021*** and was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, 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, April 6, 2021, May 4, June 2, 2021 and July 6, 2021.

Building Commissioner Chris Carmichael informed the Board that request was made for continuance to October 5, 2021.

Kenneth Kendall made a motion for ***continuance to October 5, 2021*** seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

3. REF#: ZBA-2021-028: 7 Delano Street. Petitioner: LeBlanc, Karen, previously known as Karen Anderson. 198-16: Special Permit request for 5 chickens, not to exceed 6 chickens in a RA District. Continued from July 6, 2021.

Chairman DeTerra presented a letter from James R. Gammans, owner of the property and received by the Board, wherein the said owner of the property gives permission to keep 6 chickens, no roosters, in the yard. In her presentation to the Board, petitioner stated that she loves her chickens, they eat all of the ticks and provide eggs. She further explained that the property is situated on a dead end with no neighbors in the immediate vicinity that would be affected and requested acceptance of her proposal.

Chairman DeTerra explained to petitioner that this process is a two (2) part process and that she will need a Board of Health permit if she is approved by this Board.

Ruy DaSilva made a motion to approve the request for up to 6 chickens, with no rooster(s), which was seconded by Darryl Manchester. The motion passed via roll call vote by Peg Cook, Ruy DaSilva, Darryl Manchester and Peter DeTerra. Mr. Kenneth Kendall voted against. The matter was approved on a 4 to 1 vote. Chairman DeTerra directed petitioner to see the Board of Health next.

4. REF#: ZBA-2022-007: 133 Chestnut Street. Owner: Kevin Guillotte & Willow Hawk. 198-9: Variance request from the required setback of 10" to a proposed 7.5' for a proposed sun deck.

Petitioner addressed the Board explaining that the corner of the dwelling is approximately 7.5' from the property line and wishing to put a sun deck next to the pool which was installed last year and come up to the corner of the house.

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

5. REF#: ZBA-2022-006: 33 Chestnut Street. Owner: James Hebert. 198-9: Variance request from the required rear setback of 30' to the proposed side addition rear setback of 14'7". Variance request from the required rear setback of 30' to the proposed rear sundeck setback of 8'1".

Applicant also seeks a finding from the Board as the existing non-conforming structure may be extended to include a side addition, front addition and rear sundeck and that the alteration is not substantially more detrimental than the existing non-conforming use to the neighborhood.

Petitioner explained to the Board that both he and his wife grew up in the Town and they desire to move into this property and retire here. He added that the alterations proposed are designed for a couple aging in this place. Included in the materials submitted were shots of structures on the property adjacent to an unimproved road which they have purchased.

Motion was made by Ruy DaSilva to approve the request, and seconded by Darryl Manchester the motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, 7Kenneth Kendall, Darryl Manchester and Peter DeTerra.

6. REF#: ZBA-2022-007: 77 Cottonwood Street. Owner: Pincince, Debra L. 198-16: Special Permit request to park a 28' recreational vehicle (RV) on the property at 77 Cottonwood Street, Map 43C, Lots 163 and 164 year around.

The Petitioner appeared before the Board and explained her request for the Special Permit. She explained that she lives in the house where the newly constructed driveway is and the RV, a Class C vehicle, will be parked in the said driveway and used only for out-of-town trips.

Chairman DeTerra asked Commissioner Carmichael if he wanted to speak on the matter, to which he replied in the negative.

Chairman DeTerra double checked with the petitioner that no one will be living in the mobile home while parked on the property, and petitioner specifically confirmed that being the fact of the matter.

Kenneth Kendall made a motion to approve the Special Permit with the stipulation that no one lives in the RV, including but not limited to friends, while parked on the property, which was seconded by Ruy DaSilva, and which was passed unanimously via roll call vote by Peg Cook, Rui DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

7. REF#: ZBA-2022-008: 33 Point Street. Owner: Cabana, Wade & Wanda. Determination from the Zoning Board that the increase in height (current 14.1' to proposed maximum of 35') and square footage (383 sq. feet to 1,009 sq. feet) is not more detrimental to the neighborhood, pursuant to MGL 40 Sec. 6 for building a new home.

Petitioner came before the Board and explained his desire to build a new home on the property, which they have used in the past as a summer cottage. Mrs. Cabana explained to the Board that the present cottage is being demolished to make room for the proposed dwelling to be built on stilts, and therefore the height of 35'.

Chairman DeTerra asked the Building Commissioner to opine on this proposed project. Mr. Carmichael advised that he needs to see a plot plan to determine the conforming dimensions. He further advised that if the setback lines are not conforming, then a request for Variance must be presented. After perusal of the presented materials by Chairman DeTerra and other members of the Board, determination was made that indeed the proposed setbacks are non-conforming and Variances will need to be requested. Commissioner Carmichael stated that in a RR district, the dimensions called for are: 30' front, 20 feet sideline and 30' back, and suggested a continuance of the matter as it was not properly advertised. Chairman DeTerra advised the petitioner to inform the engineer regarding a continuance.

Kenneth Kendall made a motion for ***continuance to September 7, 2021*** seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

8. REF#: ZBA-2022-009: 123 Weeden Road. Owner: Aguiar, Kyle J.

198-9: Variance request from the required front lot setback of 50' to a proposed 23.5' setback.

198-9: Variance request from the required rear lot setback of 50' to a proposed 15.1' setback.

198-9: Variance request from the required side setback of 30' to a proposed 14.0' setback.

198-9: Variance request from the minimum lot area of 50,000 sq. feet to a proposed 7.225'.

198-9: Variance request from the minimum frontage requirement of 200' to the current and proposed 85'.

198-9: Variance request from the maximum lot coverage of 25% to the proposed 29.1%.

198-9: Variance request from the maximum building coverage of 10% to the proposed 29.1%

Proposing a 1200 finished square foot addition to extend kitchen and living room.

The applicant also seeks a finding from the Board that the existing non-conforming structure may be extended to include the side addition, front addition and rear setbacks; as well as the height to the maximum of 35' and that the alteration is not substantially more detrimental than the existing non-conforming use to the neighborhood, pursuant to MGL 40, Section 6.

Kenneth Kendall abstained from this hearing as he is an abutter of the property and was also duly notified.

Chairman DeTerra notified the applicant that since Mr. Kendall is an abutter and abstained from the meeting, he has the right to continue the hearing to next month. If applicant chooses to go on with only four (4) members, the hearing can take place. However, if the requested is rejected, applicant cannot re-apply for a period of two (2) years.

Chairman DeTerra informed the applicant that he had perused the plans and commented that the requested is for seven (7) variances. He advised the applicant that they should go back to decide exactly what they need and try to eliminate variances. Applicant declared that no plans have been drawn and the engineer asked the client to find out what they can get approved for. Mr. Aguiar explained that this is his first time doing a project like this. Mr. DeTerra advised the applicant to talk to an engineer and put on paper something that they want, and come back to the Board.

Kenneth Kendall made a motion for **continuance to October 5, 2021** seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

9. REF#: ZBA-2022-010: 159 Sconticut Neck Road. Owner: Gendron, Roy. 198-23(B): Special Permit request for a Home Occupation Plastering Business.

Petitioner explained to the Board that he wants to start a business out of his home; a plastering and painting business. Chairman DeTerra explained that for a home occupation business, there is permitted a 1 square foot sign, an office, no outside storage. It's mostly for a business license. There will be no re-zoning of your property. Applicant explained that he places blueboard at times in the small shed on his property. Mr. Kendall advised applicant as to no trucks on the property.

Motion was made by Kenneth Kendall to approve the request for a Special Permit with special conditions of no trucks or outside storage on the property, which was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra.

Kenneth Kendall made a motion to adjourn and was seconded by Ruy DaSilva. Roll call vote was unanimous by Peg Cook, Ruy DaSilva, Kenneth Kendall, Darryl Manchester and Peter DeTerra and meeting adjourned at 6:35p.m.

Respectively submitted,

Maria J. Carvalho
Maria J. Carvalho
Recording Secretary

