

Board of Appeals

Town Hall · 40 Center Street · Fairhaven, MA 02719

Meeting MinutesFAIRHAVEN TOWN CLERK
RCUD 2022 AUG 4 AM9:17**I. ADMINISTRATIVE BUSINESS**

Quorum/Attendance

Peter DeTerra opened the July 5, 2022 meeting at 6:00p.m. and read the protocol for Zoom meetings and Open Public Meeting Law.

Peter DeTerra advised that the meeting was being conducted in-person and remotely, consistent with Chapter 22 of the Acts of 2022. The legislation suspends the requirement of Open Meeting Law to have all meetings in a publicly accessible physical location.

For this meeting, the Zoning Board of Appeals convened in-person, as well as by telephone and video conference via Zoom as posted on the Town's website identifying how the public may join. The meeting was recorded and will be televised at a later date; some attendees participated by phone and video conference and used chat on Zoom.

Quorum/Attendance: Daryl Manchester, Peg Cook, Peter DeTerra, Nicholas Sylvia, Alberto Silva, Ruy DaSilva. Absent: Jamie DeSousa, Kenneth Kendall

Building Commissioner: Chris Carmichael

Acceptance of Minutes – June 7, 2022

Alberto Silva made a motion to accept the minutes of June 7, 2022 and was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

II. PUBLIC HEARINGS:

1. REF#: ZBA-022-009: 55 Orchard Street, Map 28B, Lots 410 & 411. Applicant & Owner: Despina Moran-Devlin. Applicant seeks (1) an appeal of the Building Commissioner's Stop Work Order dated 11/15/21; (2) a variance from the minimum side setback of five feet to the proposed 2.7 feet, pursuant to Fairhaven Zoning Bylaw 198-18 and; (3) a finding from the Board under M.G.L. 40A, § 6, for the expansion of an existing nonconforming use to construct a 22'.8"x 18'.7" carport and 37'.5"x9'.5" deck, and that the additions are not substantially more detrimental than the existing nonconforming use to the neighborhood. – ***Continued from April 5, 2022.***

The applicant was present and requested relief from the 5-foot requirement to 2.7 feet.

Ruy DaSilva made a motion to approve the variance from the minimum side setback of five feet to the proposed 2.7 feet, pursuant to Fairhaven Zoning Bylaw 198-18 for 55 Orchard Street. The motion was seconded by Daryl Manchester and the motion passed via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

Ruy DaSilva made a motion to approve the finding from the Board under M.G.L. 40A, § 6, for the expansion of an existing nonconforming use to construct a 22'.8"x 18'.7" carport and 37'.5"x9'.5" deck for 55 Orchard and was seconded by Daryl Manchester and passed via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

2. REF#: ZBA-022-021: 39 Nelson Avenue, Map 43, Lots 224 & 225. Applicant & Owner: Stephen Taylor. Applicant seeks a finding from the Board under MGL 40A, § 6, for the reconstruction of a residence. The existing dwelling and detached garage will be removed, and a new 38' x 44' FEMA compliant single-family residence is proposed for the site. The applicant seeks a finding that alterations are not substantially more detrimental than the existing nonconforming use to the neighborhood.

The applicant purchased the lot in January 2022; this is a grandfathered non-conforming lot. A letter was drafted to the Building Commissioner detailing that the existing dwelling and detached garage will be demolished and a new FEMA compliant residence is proposed for the site. The proposed residence will be situated on the lot to decrease the existing dimensional non-conformity regarding property line setbacks. The structure will be constructed on columns with parking below. The building height does not exceed zoning requirements. This proposed residence is in keeping with other reconstructed residences in this neighborhood.

Bob Field, of Field Engineering presented the site plan and reiterated this is an existing non-conforming lot, with the existing house with attached garage covering 2,196 square feet of the 13,310 square foot lot (16.5% lot coverage). The new footprint is approximately 1,792 square feet; so the applicant will be reducing the building coverage on the lot to 13.5%.

Lauren Francis, of 1 Ruth Street (the easterly abutter to the property) was in favor of this project. The house will be moved 10-15 feet away from the property line, which she feels is an improvement to the neighborhood.

Alberto Silva made a motion to approve a finding from the Board for the reconstruction of a residence with a 38' x 44' FEMA compliant single-family residence at 39 Nelson Avenue. The motion was seconded by Ruy DaSilva and passed via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

3. REF#: ZBA-022-023: 129 Adams Street, Map 24, Lot 11. Applicant & Owner: Thomas Dias. Applicant seeks a variance to construct a 960 square foot accessory garage, where Fairhaven Zoning Bylaw 198-22 A. (1) allows only 700 square feet.

Owner and petitioner, Thomas Dias, stated he is looking for an accessory garage (nonattached) to store his vehicle in the winter.

Abutter, David Tanque, of 132 Adams Street stated he was for this petition.

Alberto Silva made a motion to approve the variance for 129 Adams Street to construct a 960 square foot accessory garage, where Fairhaven Zoning Bylaw 198-22 A. (1) allows only 700 square feet and was seconded by Ruy DaSilva. The motion passed via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

4. REF#: ZBA-022-024: 5 Rivet Street, Map 31A, Lot 55. Applicant & Owner: Brandon & Nicole Chase. Applicant is requesting a variance for a 1,296 square foot accessory garage, where Fairhaven Bylaw 198-22 A. (1) allows only 700 square feet.

Applicants, Brandon & Nicole Chase of 5 Rivet Street stated their request for the accessory structure that will be 36 feet long and 24 feet wide. This accessory structure will be used for personal use.

Neighbor, Jeremy Oliver of 19 Grinnell Street inquired about activities taking place within the garage.

Ruy DaSilva made a motion to approve a variance for a 1,296 square foot accessory garage at 5 Rivet Street and was seconded by Daryl Manchester. The motion passed via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

5. REF#: ZBA-022-025: 3-5 Indian Way, Map 29, Lot 14B. Applicant & Owner: Abner Pinto. Applicant seeks a Special Permit for a Home Occupation contracting business, pursuant to Fairhaven Zoning Bylaw 198-23. B.

Applicant, Abner Pinto rents property from 5 Indian Way. He presented his Special Permit request. He is only looking to park two commercial vehicles in the driveway.

Peter DeTerra read Fairhaven Zoning Bylaw 198-23. B., which states no more than two parking spaces shall be occupied in the front yard. He stated ZBA does not have the authority to rezone the property. This is strictly a home occupation permit.

Christopher Rivera, owner of 5 Indian Way, stated he has 4 parking spots on his side.

Building Commissioner, Chris Carmichael clarified Fairhaven Zoning Bylaw 198-23. B states building trades are permitted as a home occupation only on a Special Permit.

Neighbor, Robin Webb, of 4 Indian Way was against the Special Permit. She stated this is a private dirt road to a dead end. She expressed concern over the noise associated with these commercial vehicles.

Timothy & Rema Hernandez spoke in favor of Mr. Pinto's request. They have no concerns for his business on the property. They are direct abutters and hear no noise. This permit is more for the parking and not running his business out of the home. They claim two cars can fit down this road.

Owner of 5 Indian Way stated there are three houses on the road and that Ms. Webb's home is behind 50 yards of bamboo.

Mr. Pinto stated he has one business van and a pick-up truck located on the property.

Alberto Silva publicly disclosed that he may have had work done by Mr. Pinto. Also wanted applicant to be aware this Special Permit is only for a home office and he cannot move the business onto that property.

Alberto Silva made a motion to approve Special Permit for a Home Occupation contracting business at 3-5 Indian Way and was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

6. REF#: ZBA-022-026: 31 Bernese Street, Map 29A, Lots 341. Applicant & Owner: James & Karen Surprenant. Applicant seeks a finding from the Board, under M.G.L. 40A, § 6, to determine if the construction of a 14'x 30' detached garage to a pre-existing non-conforming use is not substantially more detrimental than the existing nonconforming use to the neighborhood.

Applicant & owner, James Surprenant stated he is looking for approval for a 14'x 30' detached shed and garage.

Alberto Silva made a motion to accept the finding from the Board that the detached garage to a pre-existing non-conforming use is not substantially more detrimental than the existing nonconforming use to the neighborhood located at 31 Bernese Street. The motion was seconded by Ruy DaSilva and passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

7. REF#: ZBA-022-027: 108 Center Street, Map 10, Lot 174. Applicant & Owner: Manuela Jorgensen. Applicant seeks a finding from the Board under M.G.L. 40A, § 6, for the expansion of an existing nonconforming use to extend a 6' x 12' deck (72 square feet),

and that the additions are not substantially more detrimental than the existing nonconforming use to the neighborhood.

Applicant Manuela Jorgensen stated she is looking to extend her deck and eventually make a patio.

Ruy DaSilva made a motion to approve the finding from the Board and that the additions are not substantially more detrimental than the existing nonconforming use at 108 Center Street and was seconded by Alberto Silva. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

Ruy DaSilva made a motion to adjourn 6:33p.m. and was seconded by Daryl Manchester. The motion passed unanimously via roll call vote by Peg Cook, Ruy DaSilva, Daryl Manchester, Alberto Silva, and Peter DeTerra (5-0).

Respectfully submitted,

Kelly Camara, Recording Secretary