

Board of Appeals

Town Hall · 40 Center Street · Fairhaven, MA 02719

Meeting Minutes

FAIRHAVEN TOWN CLERK
RCUD 2022 NOV 2 PM12:43

I. ADMINISTRATIVE BUSINESS

Quorum/Attendance

Peter DeTerra opened the August 2, 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: Peg Cook, Peter DeTerra, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall, Patrick Carr

Absent: Jamie DeSousa, Alberto Silva, Daryl Manchester

Interim Building Commissioner: Andy Bobola

Acceptance of Minutes – July 5, 2022

Kenneth Kendall made a motion to accept the minutes of July 5, 2022 and was seconded by Ruy DaSilva. The motion passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall (5-0).

II. PUBLIC HEARINGS:

1. REF#: ZBA-022-021: 6 Camel Street, Map 29, Lots 61-63. Applicant & Owner: Eric Moniz. Applicant seeks (1) a finding from the Board under MGL 40A, § 6 to construct a garage on a non-conforming lot and that the additions are not more substantially detrimental than the existing nonconforming use to the neighborhood and; (2) a variance for a 2,520 square foot accessory structure, where only 700 square feet is allowed pursuant to Fairhaven Zoning Bylaw 198-22 A (1).

Keith Silvia represented the applicant, Mr. Moniz. The applicant would like to construct a garage to store a pulling tractor, vehicles, and a boat for the winter. The garage will measure 2,400 square feet.

Joan Marin, a direct abutter was against this petition. She stated the lot is undevelopable, due to wetlands.

Chair, Peter DeTerra explained that is a Conservation issue.

Ruy DaSilva made motion to approve the finding from the Board under MGL 40A, § 6 to construct a garage on a non-conforming lot and the motion was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Ruy DaSilva, Kenneth Kendall, Patrick Carr (5-0).

Ruy DaSilva made a motion to approve a Variance for a 2,520 square foot accessory structure, where only 700 square feet is allowed, pursuant to Fairhaven Zoning Bylaw 198-22 A (1) and the motion was seconded by Patrick Carr. The motion passed via roll call vote by Peter DeTerra, Ruy DaSilva, Kenneth Kendall, Patrick Carr; Peg Cook was not in favor (4-1).

2. REF#: ZBA-022-022: 169 Cottonwood Street, Map 43B, Lot 169. Applicant & Owner Michelle Potter. Applicant seeks a finding from the Board under MGL 40A, § 6 to construct a 12'x24' addition to a pre-existing non-conforming lot and that the additions are not more substantially detrimental than the existing nonconforming use to the neighborhood.

Applicant and owner, Michelle Potter, spoke on her behalf.

Ruy DaSilva made a motion to approve a finding from the Board for 169 Cottonwood Street under MGL 40A, § 6 to construct a 12'x24' addition to a pre-existing non-conforming lot and was seconded by Kenneth Kendall. The vote passed unanimously via roll call vote by Peg Cook, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall, Patrick Carr (5-0).

3. REF#: ZBA-022-023: 42 Bellevue Street, Map 24, Lots 234-237 & 41. Applicant & Owner: Allen Days, Jr. Applicant seeks a variance from Fairhaven Zoning Bylaw 198-17 (D), which states not more than one single-family, semidetached or two-family dwelling shall be erected on a lot, in order to convert a 36'x24'x10 pool house into a single-family dwelling.

Applicant and owner, Allan Days, Jr. stated he acquired the property over 30 years ago and restored the three-bay garage into a home. They would like to convert the pool house into an in-law apartment for his parents. The pool house which is an extension to the main house can be self-contained; it is approximately 1,000 square feet. It has its own off-street parking. Mr. Days believes this project conforms with the neighborhood and does not infringe on any of the side setbacks. He does not feel it is detrimental to the neighborhood, since it is consistent with other single-family homes on the street. There are also (2) two-family homes directly across the street, owned by the town of Fairhaven.

Paul Tetrault was for this petition.

Interim Building Inspector, Andrew Bobola, stated that the pool house would have to be attached to the main dwelling, to be consistent with the bylaw. As currently proposed, the project would create two single-family units on one family lot, within a one residential zoning district. He recommended the applicant file with the Planning Board, in order to create two separate lots. Therefore, there would be frontage on Ash Street and Bellevue Street.

Mr. Days stated the former Building Commissioner presented both options, but suggested this route, as it was the most direct path. This is a pool house built into an accessory building. It is on four smaller lots that are consistent with the neighborhood; it is already subdivided. This property is already self-contained with all utilities.

Kenneth Kendall expressed concern regarding sub-dividing into one name where the property becomes one lot. Mr. Days has property on Bellevue Street and 4 lots on Ash Street. If they are all in one name then it becomes one lot.

Mr. Bobola stated the Planning Board has the authority to approve two separate houses in the same ownership, but with two separate titles.

Peter DeTerra suggested the applicant continue to the September 6, 2022 meeting after the plan is presented to the Planning Board.

Mr. Days had concerns about tie-ins, once subdivided.

Kenneth Kendall stated easements are permissible for tie-ins.

Mr. Days added the back conforming lot is over 16,000 square feet, but the house on Bellevue Street is on a 10,000 square foot lot. He was concerned the lot with the single-family home would now be non-conforming lot.

Mr. Bobola stated they may require a Special Permit versus a Variance to establish the front lot on Bellevue Street.

Kenneth Kendall made a motion to continue 42 Bellevue Street until the September 6, 2022 meeting and was seconded by Ruy DaSilva. The vote passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall, Patrick Carr (6-0).

4. REF#: ZBA-022-024: 10 Oxford Street, Map 13, Lot 002. Applicant & Owner: James Novakoff. Applicant seeks a variance to enlarge an existing living room and bedroom, as well as convert the deck to a three-season room, where only 700 square feet is allowed, pursuant to Fairhaven Zoning Bylaw 198-22 A (1).

Kenneth Kendall made a motion to continue 10 Oxford Street until September 6, 2022 and was seconded by Ruy DaSilva. The vote passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall, Patrick Carr (6-0).

Chair, Peter DeTerra, welcomed new associate member, Patrick Carr, to the Board.

Kenneth Kendall made a motion to adjourn at 6:24p.m. and was seconded by Ruy Dasilva. The vote passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Nicholas Sylvia, Ruy DaSilva, Kenneth Kendall, Patrick Carr (6-0).

Respectfully Submitted,

Kelly Camara, Recording Secretary