

Board of Appeals

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting Minutes

I. ADMINISTRATIVE BUSINESS

1. Quorum/Attendance

Peter DeTerra opened the March 7, 2023 meeting at 6:02 PM 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: Peter DeTerra, Daryl Manchester, Peg Cook, Nicholas Silva, Patrick Carr

Absent: Kenneth Kendall, Alberto Silva, Ruy daSilva, Jamie DeSousa

Building Commissioner: Randy Bassett

After calling attendance, Peter DeTerra then outlined the procedures for the public hearings and all processes required upon acceptance of the applications.

2. Acceptance of the February 7, 2023 meeting minutes

Daryl Manchester made a motion to accept the minutes of February 7, 2023, and was seconded by Peter DeTerra. The motion passed unanimously via roll call vote by Peg Cook, Peter DeTerra, Daryl Manchester, Patrick Carr, and Nicholas Silva (5-0).

II. PUBLIC HEARINGS:

1. 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. — *Continued from August 2, 2022*

Daryl Manchester made a motion to continue 42 Bellevue Street Map 24, Lots 234-237 & 41 to the next meeting and was seconded by Patrick Carr; all in favor.

2. REF#: ZBA-023-007: 148 Dogwood Street, Map 43A, Lots 153-155. Applicant and owner: Nancy Santoro. Applicant seeks (1) a Special Permit to construct a 30 ft. x 25 ft. attached garage with a living space above, pursuant to Fairhaven Zoning Bylaw 198-15 Use Regulations and (2) a 5 ft. Variance for the garage to be located 15 ft. from the side property line vs. the 20 ft. minimum requirement, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule.

Ms. Santoro, the owner of 148 Dogwood Street, spoke to the board, outlining that she owned both lots 153 and 155 and had plans to build a garage with living space above on her property, noting that the requested variance was a provisional measure as the exact plan had not been decided upon. She had spoken to a few of the interim building commissioners, seeking to know exactly what she could build on lot 155 as it was her understanding that both lots had a sewer connection. As such, she wished to include a living space with the new construction. She stated that the previous owner of the two lots had obtained a betterment for both lots.

Mr. DeTerra asked if there was already a primary structure on the lot and Ms. Santoro stated that on lot 155 there was a 12' x 15' shed currently. Mr. DeTerra stated that the structure to be built on lot 155 would need to be a primary structure, rather than an accessory structure. Ms. Santoro noted that the zoning of lot 155 matched that of lot 153 where her house is built. Her main question was if it was allowable to build a garage with a living space above on lot 155.

Mr. DeTerra inquired if she had spoken to the Board of Health as to how many bedrooms she could have and then requested further clarification on the exact number and type of structures being referred to on the application. Ms. Santoro clarified that the original proposal was to have a single garage attached to her house on lot 153, but she was flexible in terms of what could be built. At the request of Mr. DeTerra, she pointed out where the proposed garage would go on a preliminary plot plan shown on screen to the committee.

After Ms. Santoro affirmed Mr. Manchester's question that all that currently existed on lot 155 was a shed, Mr. DeTerra asserted that lot 155 needed a primary structure rather than a garage, and thus the application should be for a 30 ft. x 25 ft house instead. Ms. Santoro offered to show the committee photos of other properties in the neighborhood.

In answering further questions from the board on details of the property, Ms. Santoro explained that her recently built 30' x 40' house is on lot 153 and she had previously come before this board before building that house. She also explained that lots 153 and 155 are considered to be tied together by the Assessor's Office.

When Mr. DeTerra requested questions and comments from the board, Mr. Carr asked if Ms. Santoro could rework her application with better specificity as to both the lot and the type of structure to be built on it. Ms. Cook also inquired if the board would act on the application tonight or if it would be continued to the next meeting. Mr. DeTerra suggested that the hearing

could be continued to the April meeting to give Ms. Santoro time to clarify the application. When he prompted Building Commissioner Randy Bassett for comment, Mr. Bassett also asserted that there could not be an attached garage on lot 155 without a primary structure on the lot to attach it to.

Ms. Santoro explained that she had been attempting to learn if the proposed garage could be attached to her house on lot 153 or not. Mainly, she is looking for guidance and would be willing to meet with Mr. Bassett for help with refining the application ahead of the April 4th meeting.

When a member of the public wished to speak on this application, Mr. Manchester outlined that the hearing would be continued at the next meeting with a reworked application, and it was best to save her comments for that time.

Daryl Manchester made a motion to continue 148 Dogwood Street, Map 43A, Lots 153-155 to the next meeting and was seconded by Patrick Carr; all in favor.

3. REF#: ZBA-023-008: 40 Nelson Ave, Map 43, Lot 233. Applicant and owner: Christopher J. Wolkowicz. Applicant seeks a Special Permit to raze the existing house and re-build the house on a flood zone-compliant foundation with a new septic system and associated site work, pursuant to Fairhaven Zoning Bylaw 198-21 MGL 40A Sec 6, Pre-Existing Nonconforming Structure & Lot.

Richard Charon of Charon Associates, Inc. spoke on behalf of the applicant, Christopher J. Wolkowicz. 40 Nelson Ave was a family cottage owned by the Wolkowicz family and passed on to Christopher. The proposed new house would have virtually the same setbacks as the existing house – 10 ft. on the north side, 14 ft. on the south side, 14 ft. on the east side/front of the house, and 26 ft. on the west side/back of the house. The proposed lot coverage is also smaller than the existing footprint – 36.9% for the existing house vs 30.6% for the new house. The tear-down and rebuild would also include the installation of a new septic system with a denitrification system with a full leaching field.

This plan has already been approved by the Board of Health. They also met with the Conservation Commission a week prior to this meeting and while the order of conditions was not yet complete and the plan had not been voted on officially, the Commission was content with the site plan.

Mr. Charon presented the architectural plans to the board and how the new house would be raised on stilts as it is in the Coastal Flood Zone. Underneath the house would be a garage. They also expect the new septic system to lessen the environmental impact on the local shellfish population.

At the request for comments from the public, Fred Malloux of 9 Palmer St, wished to speak, bringing forth questions on behalf of Pamela Veek of 38 Nelson Ave. She was concerned about the possible effect of the new septic system and leeching field on her property. In the discussion between Mr. Malloux and Mr. Charon, Mr. Charon clarified that the septic system would be built on the south side of the lot, abutting the vacant lot 234 and on the opposite side of Ms. Veek's property.

Daryl Manchester made a motion to approve a Special Permit to raze the existing house and re-build the house on a flood zone-compliant foundation with a new septic system and associated site work, pursuant to Fairhaven Zoning Bylaw 198-21 MGL 40A Sec 6, Pre-Existing Nonconforming Structure & Lot at 40 Nelson Ave, Map 43, Lot 233. The motion was seconded by Patrick Carr and passed via a roll call vote with Peter DeTerra, Peg Cook, Daryl Manchester, Patrick Carr, and Nicholas Silva in favor (5-0).

4. REF#: ZBA-023-009: 22 Hopkins Street, Map 22A, Lot 236. Applicant and owner: Brian Menard. Applicant seeks (1) a Special Permit to build an 18 ft. x 30 ft. addition to the existing house, pursuant to Fairhaven Zoning Bylaw 198-21 MGL 40A Sec 6, Pre-Existing Nonconforming Structure & Lot and (2) a 14.1 ft. Variance for the addition to be located 5.9 ft. from the front property line vs. the 20 ft. minimum requirement, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule.

Brian Menard, the owner of 22 Hopkins Street, stated that he had lived at the property for 14 years and owned it for 7 years. The existing house is less than 900 square feet in size and this addition would allow more room for his family. The addition would follow the existing line of the house, which would put it within 5.9 ft. of the front property line. The house has water, gas, and a sewer line from the Town.

Daryl Manchester made a motion to approve a Special Permit to build an 18 ft. x 30 ft. addition to the existing house, pursuant to Fairhaven Zoning Bylaw 198-21 MGL 40A Sec 6, Pre-Existing Nonconforming Structure & Lot at 22 Hopkins Street, Map 22A, Lot 236. The motion was seconded by Patrick Carr and passed via a roll call vote with Peter DeTerra, Peg Cook, Daryl Manchester, Patrick Carr, and Nicholas Silva in favor (5-0).

Daryl Manchester made a motion to approve a 14.1 ft. Variance for the addition to be located 5.9 ft. from the front property line vs. the 20 ft. minimum requirement, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule at 22 Hopkins Street, Map 22A, Lot 236. The motion was seconded by Patrick Carr and passed via a roll call vote with Peter DeTerra, Peg Cook, Daryl Manchester, Patrick Carr, and Nicholas Silva in favor (5-0).

After the vote, Mr. DeTerra outlined the approval process and timeline to Mr. Menard.

Daryl Manchester made a motion to adjourn at 6:34 PM and was seconded by Patrick Carr; all were in favor.

Respectfully Submitted,

Stephanie A. Fidalgo
Recording Secretary
Board of Appeals