

Board of Appeals

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting MinutesFAIRHAVEN TOWN CLERK
RCUD 2023 MAY 11 AM 11:04**I. ADMINISTRATIVE BUSINESS****1. Quorum/Attendance**

Peter DeTerra opened the April 4, 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, Kenneth Kendall, Peg Cook, Ruy daSilva, Daryl Manchester, Patrick Carr, Jamie DeSousa (via Zoom)

Absent: Alberto Silva, Nicholas Silva

Building Commissioner: Randy Bassett

2. Acceptance of the March 7, 2023 meeting minutes

Kenneth Kendall made a motion to accept the minutes of March 7, 2023, and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote by Peg Cook, Kenneth Kendall, Ruy daSilva, Daryl Manchester, Patrick Carr, Jamie DeSousa, and Peter DeTerra (7-0).

II. CORRESPONDENCE:

1. Owner/Applicant Antone Arruda of 481 Sconticut Neck Road requests an extension of the previously granted Variance (granted April 5, 2022) in accordance with MGL, Chapter 40A, Section 10. The owner has requested the Board to consider granting a six (6) month extension.

Kenneth Kendall made a motion to approve a six (6) month extension of the previously granted Variance (granted April 5, 2022) in accordance with MGL, Chapter 40A, Section 10, and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Peg Cook, Kenneth Kendall, Ruy daSilva, Daryl Manchester, Patrick Carr, and Jaime DeSousa in favor (6-0).

III. 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*

Mr. DeTerra noted that the applicant is currently working with the Planning Board to have the lots separated.

Kenneth Kendall made a motion to continue 42 Bellevue Street Map 24, Lots 234-237 & 41 to the next meeting and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote by Peg Cook, Kenneth Kendall, Ruy daSilva, Daryl Manchester, and Jaime DeSousa in favor (5-0).

- 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. — *Continued from March 7, 2023*

Mr. DeTerra noted that the applicant is currently working with the Building Commissioner and will submit updated plans.

Kenneth Kendall made a motion to continue 148 Dogwood Street, Map 43A, Lots 153-155 to the next meeting and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Peg Cook, Kenneth Kendall, Ruy daSilva, Daryl Manchester, and Jaime DeSousa in favor (5-0).

- 3. REF#: ZBA-023-011: 63 Fort Street, Map 5, Lot 29.** Applicant and owner: Kevin Grant. Applicant seeks a Variance to build a 16' x 20' garage to be located 1.5 ft. from the rear property line vs. the minimum 5 ft. setback, pursuant to Fairhaven Zoning Bylaw 198-22 A. (4).

Applicant, Kevin Grant, spoke to the board on the application. There is a pre-existing garage on the property that the applicant wished to restore, however, the foundation had been split apart by the tree beside the garage. As such, the wall against the remnants of the tree is also decayed and the garage door no longer opens. The garage was also built during the 1930s and is now too small for a single modern car.

The request for the Variance for the new garage to be built 1.5 feet from the property line is so

the new garage can remain in line with the footprint of the existing garage and to allow for easier access to the new garage given that it will be built behind the house. Mr. Grant also pointed out that the fence on the east abutting property, 44 Green Street, is currently placed 2.5 ft back from the property line which will create a 4-foot gap between it and the back of the new garage. He would like to complete this project within the year, given the poor state of the existing garage.

At the request of Mr. DeTerra, Mr. Grant clarified that the existing garage would be razed and have its foundation removed allowing for the new garage to be larger - 16' x 20' for the new garage as compared to 10' x 16' for the existing garage.

Building Commissioner, Randy Bassett, brought up his concerns with maintenance on the new garage should the fence on 44 Green Street be rebuilt closer to the property line. To his question about the direction of the roof's pitch, Mr. Grant explained that the ridge of the roof would run east to west with the pitch coming up from the north and south sides. Then, to Mr. Bassett's question as to why the garage could not be built further from the property line, Mr. Grant outlined the issues with driving a car either into or out of the garage given that one must navigate around the corner of the house.

Mr. Kendall had concerns about whether the foundation for the new garage would encroach on 44 Green Street. Ms. Cook suggested building the garage further south on the property to better meet the 5 ft. setback requirements. In ascertaining the distance from the house to the proposed garage, Mr. Carr estimated that it was 18 ft. from the back of the house. On the issue of maintaining the garage, Mr. Manchester outlined an owner's right to maintain their property as well as the process of filing a Maintenance of Building Bond. Mr. Grant explained that given the pitch of the roof, it could be accessed from the north and south sides for maintenance.

Following up on that point, the board asked if the building would exceed the 20 ft. maximum height allowable for an accessory building and Ms. Lauren Grant explained that there would only be a crawlspace under the roof. Mr. Carr also had questions about the reuse of the existing concrete pad, but Mr. Grant reiterated how it had been warped by tree roots. Mr. Kendall pointed out the discrepancy between the existing building being referred to as both a garage and a shed and Mr. Grant explained that while it was originally built as a garage, the current use is as a shed and that the new building would be a garage. Returning to the previous point, Mr. Carr asserted that a concrete pad could be used in lieu of a foundation for a garage which would eliminate the board's concerns about the foundation encroaching on 44 Green Street.

Mr. DeSousa cut in to say that the conversation had trended towards one about building rather than zoning. Returning to the position of the garage, both Mr. and Ms. Grant reiterated their concerns about being able to easily navigate in and out of the garage while driving as well as their desire to maintain the current layout of the lot as to why they sought this Variance.

When Mr. Kendall raised his concerns about lot coverage given the large concrete drive and patio on the lot, Ms. Grant explained that the patio would be reduced in size as part of their plans for new landscaping. Mr. Manchester then brought forth the Building Commissioner's concerns regarding the height of the building as it was not clearly listed on the submitted architectural drawings. Mr. Manchester suggested setting a condition that the height should not exceed 20 feet in order to be in compliance with the by-laws. A discussion followed, attempting to determine the height based on the drawings and if additional language would be needed for the motion until Ms. Grant determined that the building should be under 20 feet.

Ruy daSilva made a motion to approve a Variance to build a 16' x 20' garage to be located 1.5 ft. from the rear property line vs. the minimum 5 ft. setback, pursuant to Fairhaven Zoning Bylaw 198-22 A. (4) and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Peg Cook, Kenneth Kendall, Ruy daSilva, Daryl Manchester, and Jaime DeSousa in favor (5-0).

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