

**Board of Appeals**

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting Minutes**I. ADMINISTRATIVE BUSINESS****1. Quorum/Attendance**

Peter DeTerra opened the May 2, 2023 meeting at 6:00 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, Alberto Silva, Peg Cook, Ruy daSilva, Daryl Manchester, and Patrick Carr

**Absent:** Kenneth Kendall, Nicholas Silva, Jamie DeSousa

**Building Commissioner:** Randy Bassett

**2. Acceptance of the April 4, 2023 meeting minutes**

Ruy daSilva made a motion to accept the minutes of April 4, 2023, and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, Alberto Silva, and Peter DeTerra (6-0).

**II. CORRESPONDENCE:**

1. Owner/Applicant Brian Dupras, of 14 Harbor View Ave. requests an extension of the previously granted Variance (granted May 3, 2022) in accordance with MGL, Chapter 40A, Section 10. The owner has requested the Board to consider granting a six (6) month extension.

Alberto Silva made a motion to approve a six (6) month extension of the previously granted Variance (granted May 3, 2022) in accordance with MGL, Chapter 40A, Section 10, and was seconded by Daryl Manchester. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, and Alberto Silva (5-0).

**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.

Patrick Carr made a motion to continue 42 Bellevue Street Map 24, Lots 234-237 & 41 to the next meeting on June 6 and was seconded by Alberto Silva. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, and Alberto Silva (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*

Applicant and owner Nancy Santoro was invited to speak to the board. She previously went before the Board of Health and the DPW who are now in talks with the Town Administrator and Town Council regarding the water and sewer hook-ups for the garage.

Mr. DeTerra asked if Ms. Santoro could provide further information or letters from either the Board of Health or the DPW and she answered that neither board had finalized a decision. Mr. DeTerra then explained that the Board of Appeals would need information from the other boards before they could vote on this application.

Ms. Santoro inquired if it would be possible to vote on the application before the sewer and water issues were fully resolved. Mr. DeTerra reiterated that the board could not vote without reviewing all the information relevant to the application and suggested that the public hearing be continued at the next meeting.

When prompted for questions from the board, Mr. Silva asked if the application had changed to be only for a garage and Mr. DeTerra then covered how this project was also being evaluated by the DPW and the Board of Health due to the request for sewer and water hook-ups with Ms. Santoro noting how it had been escalated for review after those meetings.

When questions arose regarding the submitted plans and information, Mr. Bassett explained that he had received two concept sketches depicting the second floor living space from Ms. Santoro, but she had not clarified which would be the final version. She explained that the version that included a bathroom was the one presented to the Board of Health.

After Mr. DeTerra affirmed that the board would vote to continue this hearing at the next meeting to give time for more information to be submitted, Ms. Santoro asked if she could meet again with Mr. Bassett. Mr. Bassett then requested that she bring in a full set of engineered plans to help with the application process and Mr. DeTerra added that an engineering firm would assist her with navigating the rules and regulations around the project.

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

3. **REF#: ZBA-023-010: 33 Whisper Lane, Map 42A, Lot 196.** Applicant and owner: Jose E. Pinda. Applicant seeks a Special Permit for a Home Occupation business to operate a Painting business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades.

Neither the applicant, Jose E. Pinda, nor a representative for him was present for the public hearing.

Ruy daSilva made a motion to continue 33 Whisper Lane, Map 42A, Lot 196 to the next meeting and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, and Alberto Silva (5-0).

4. **REF#: ZBA-023-013: Capeview Street, Map 29D, Lots 180-181.** Applicant and owner: Michael Gaj. Applicant seeks a Variance for the construction of a 30 ft. x 40 ft. house on a 14,400 sq ft. lot which is under the 30,000 sq ft. minimum lot size and with 120 ft. of frontage vs. the 140 ft. minimum requirement in the Rural Residential District, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule.

Applicant, Michael Gaj, spoke to the board. He plans to build a small house with a garage underneath on the property which sits directly across the street from his home on 8 Crescent Drive. The house would connect to the sewer line to the north on Crescent Drive and the water main to the south on Fairview Steet. The lot is undersized for the rural residential district, but many of the lots in that neighborhood are similarly undersized.

Mr. DeTerra double-checked both the square footage of the lot as well as its frontage. During the conversation, Mr. Gaj noted that he also owns a smaller 6,000 sq ft. property he had considered building on but instead chose to develop this larger property.

After prompting the board for questions, there was a brief discussion regarding the smaller property Mr. Gaj owns but he stated his preference to have the house built on this larger Capeview Property. The board also went over the measurements of the lot as compared to the lot and frontage requirements of the RR district.

Mr. Mark Carvalho, speaking via Zoom, spoke in favor of the application.

Mr. Michael Dane and Ms. Barbara Jean Dane, speaking via Zoom, spoke in favor of the application.

Alberto Silva made a motion to approve a Variance for the construction of a 30 ft. x 40 ft. house on a 14,400 sq ft. lot which is under the 30,000 sq ft. minimum lot size and with 120 ft. of frontage vs. the 140 ft. minimum requirement in the Rural Residential District, pursuant to Fairhaven Zoning Bylaw 198-18, Intensity of Use Schedule and was seconded by Ruy daSilva. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, and Alberto Silva (5-0).

5. **REF#: ZBA-023-014: 40 Nelson Ave, Map 43, Lot 233.** Applicant and owner: Christopher J. Wolkowicz. Applicant seeks a 2 ft. Variance for the construction of a replacement house on the lot where the planned 37 ft. height of the building will exceed the maximum 35 ft. allowed in the Rural Residential District, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule.

Richard Charon of Charon Associates, Inc. spoke on behalf of the applicant, Christopher J. Wolkowicz. He reviewed the previous application made to the board (REF#: ZBA-023-008: 40 Nelson Ave, Map 43, Lot 233, Approved March 7, 2023) for the razing of the existing house on the lot to rebuild a new house with a new septic system and garage built underneath.

This new application is for a Variance for the planned height of the building to be 37 ft., exceeding the maximum allowed 35 ft. Mr. Wolkowicz has requested a 9 ft. ceiling height for the first and second floors of the house to accommodate his height. Mr. Charon's team has worked to accommodate his request in the design of the new house within the regulations. The issue is that due to the grading to accommodate an underground garage in a flood zone and the topography of the lot itself, the garage ceiling height must be 10 ft. rather than the standard 8 ft.

Mr. Carr wished to know the pitch of the roof. Mr. Charon noted that he didn't know the pitch of the roof on the current house, but the planned pitch for this rebuilt house is 5-12. Mr. Carr asked if it was possible to adjust the pitch of the roof to meet the 35 ft. height requirement and Mr. Charon said that a 3-12 could be possible but that flattening the roof could lead to other issues.

Mr. Bassett asked which flood zone the house was in, and Mr. Charon stated that it is in a VE 19' Flood Zone. The proposed height of the underground garage is required to raise the main house above the Base Flood Elevation, given its location in a Very High Risk Coastal Area.

Alberto Silva made a motion to approve a 2 ft. Variance for the construction of a replacement house on the lot where the planned 37 ft. height of the building will exceed the maximum 35 ft. allowed in the Rural Residential District, pursuant to Fairhaven Zoning Bylaw 198-18 Intensity of Use Schedule and was seconded by Patrick Carr. The motion passed unanimously via roll call vote by Daryl Manchester, Ruy daSilva, Peg Cook, Patrick Carr, and Alberto Silva (5-0).

Before adjourning the meeting, Mr. DeTerra made one additional call for the applicant or a representative for 33 Whisper Lane and received no response.

Alberto Silva made a motion to adjourn at 6:23 PM and was seconded by Ruy daSilva; all were in favor.

Respectfully Submitted,

Stephanie A. Fidalgo  
Recording Secretary  
Board of Appeals