

## **Board of Appeals**

Town Hall • 40 Center Street • Fairhaven, MA 02719

### Meeting Minutes

#### **I. ADMINISTRATIVE BUSINESS**

##### **1. Quorum/Attendance**

Ruy daSilva opened the September 5, 2024, meeting at 6:00 PM. He introduced the board members and read the protocol for Zoning Board of Appeals meetings and Open Public Meeting Law.

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, Town Hall:** Ruy daSilva, Daryl Manchester, Peg Cook, Pat Carr, Kristen Russell, and Derek Furtado.

**On Zoom:** Amy Goyer

**Absent:** Katharine MacPhail

**Recording Secretary:** Stephanie Fidalgo, present in Town Hall.

Building Commissioner Richard Forand was absent.

##### **2. Acceptance of the July 2, 2024, meeting minutes**

Pat Carr made a motion to accept the minutes of the July 2, 2024, meeting and was seconded by Daryl Manchester.

The motion passed unanimously via roll call vote of all members. (7-0)

##### **3. Reorganization of the Board**

The Board needed to reorganize to elect a new chair and vice-chair since the departure of Mr. Kenneth Kendall. Recording Secretary Stephanie Fidalgo conducted the elections on behalf of the board and noted that only Full Board members could be nominated.

- a. **Chair:** Ms. Fidalgo requested nominations for Chair. Mr. Manchester nominated Patrick Carr. Mr. Carr accepted the nomination. There were no other nominations for chair. Ms. Fidalgo conducted a roll call vote of the full members of the Board.

**Mr. Carr was unanimously elected chair via roll call vote with Amy Goyer, Ruy daSilva, Patrick Carr, Daryl Manchester, and Peg Cook in favor (5-0).**

- b. **Vice Chair:** Ms. Fidalgo requested nominations for Vice Chair. Mr. Carr nominated Ruy daSilva. Mr. daSilva accepted the nomination. There were no other nominations for chair. Ms. Fidalgo conducted a roll call vote of the full members of the Board.

**Mr. daSilva was unanimously elected vice chair via roll call vote with Amy Goyer, Ruy daSilva, Patrick Carr, Daryl Manchester, and Peg Cook in favor (5-0).**

### III. PUBLIC HEARINGS:

Before the opening the public hearings, Ms. Fidalgo read the meeting procedures to the gathered public. Mr. Carr requested that the meeting procedures be forwarded to the Board members with their meeting packets going forward.

1. **REF#: ZBA-023-029: 3 Birchfield Street, Map 24, Lot 280. Applicant: Brian Slowik Owner: Slowik Family Trust.** Applicant seeks a Special Permit for storage of a mobile home and for occasional occupation longer than forty-eight (48) hours consecutively, pursuant to Fairhaven Zoning Bylaw 198-16 Use Regulation Schedule, footnote 8. In accordance with Fairhaven Zoning Bylaw 198-8 Special Permit, A. this permit shall be subject to additional conditions, safeguards and limitations on time, space, and use as the board may reasonably require. — *Continued from September 5, 2023, Last continued from July 2, 2024, **Applicant requests to be continued to the October 2, 2024 meeting.***

Ms. Fidalgo noted the continuing litigation regarding this property as the reason for the continuation request. Mr. Slowik had requested a continuation to the October meeting in his last correspondence with the staff.

Ms. Fidalgo noted that the agenda noted that the October meeting would be taking place on Tuesday, October 1, 2024. However, there were now plans made to have an informational meeting for the November Special Town Meeting on the night of October 1, 2024. Ms. Fidalgo asked if the Board would like to officially move their October meeting to Wednesday, October 2, 2024 so as not to have overlap.

When the discussing the date, Mr. Manchester informed the Board that he would be unable to attend on October 2, 2024, but Mr. Carr noted that an associate member could vote in Mr. Manchester's place for that meeting.

**Ruy daSilva made a motion to move the originally scheduled October 1, 2024, meeting to October 2, 2024, and was seconded by Daryl Manchester.**

**The motion passed unanimously via roll call vote with Amy Goyer, Ruy daSilva, Patrick Carr, Daryl Manchester, and Peg Cook in favor (5-0).**

**Ruy daSilva made a motion to continue the hearing for 3 Birchfield Street to the October 2, 2024, meeting and was seconded by Daryl Manchester.**

**The motion passed unanimously via roll call vote with Amy Goyer, Ruy daSilva, Patrick Carr, Daryl Manchester, and Peg Cook in favor (5-0).**

Before moving on to the next public hearing, Mr. Carr formally welcomed Mr. Derek Furtado as a new associate member to the board.

2. **REF#: ZBA-024-012: 282 Mill Road, Map 38, Lot 1 Applicant and Owner: Nathan Cordeiro.** Applicant seeks a Special Permit for a new dwelling with 3,358 sq. ft. of living space and an 859 sq. ft. garage in a Rural Residence (RR) district to include an 896 sq. ft. accessory apartment, pursuant to Fairhaven Zoning Bylaw 198-16 Use Regulation Schedule.

Mark Cordeiro, father of the applicant, Nathan Cordeiro, spoke to the Board. He explained that the new house was being built with an accessory apartment to allow for family to stay there.

Mr. Cordeiro answered Mr. daSilva's questions that there had previously been a house on the property which had been demolished, that this new house would be larger than the previous one, and that the new house would utilize a septic system.

Mr. Carr ensured that the lot met the minimum lot size requirement, and the new house was within the setbacks for the zoning district.

There was no public comment on this petition.

**Ruy daSilva made a motion to approve a Special Permit for a new dwelling with 3,358 sq. ft. of living space and an 859 sq. ft. garage in a Rural Residence (RR) district to include an 896 sq. ft. accessory apartment, pursuant to Fairhaven Zoning Bylaw 198-16 Use Regulation Schedule and was seconded by Daryl Manchester.**

**The motion passed unanimously with Ruy daSilva, Daryl Manchester, Patrick Carr, Peg Cook, and Amy Goyer in favor (5-0).**

Mr. Carr and Ms. Fidalgo explained the process for when the applicant would receive the Board's decision.

- 3. REF#: ZBA-024-013: 25 Mulberry Street, Map 11, Lot 155. Applicant and Owner: Mark Correia.** Applicant seeks a Special Permit to authorize housing chickens on the property in a Single Residence (RA) district not to exceed 10 chickens, not to include any roosters, for the coop to be at least 20 feet from any dwelling and at least 10 feet from the property line, and for the applicant to submit an operations and maintenance plan for manure, food, and water to the Board of Health, pursuant to Fairhaven Zoning Bylaw 198-16, Use Regulation Schedule and Chapter 405, Animals.

As Ms. Goyer had previously lived at 27 Mulberry Street for seven years and knew the neighborhood residents personally, she recused herself from the conversation and returned to the Zoom meeting waiting room for the duration of the hearing.

The applicant, Mark Correia, spoke to the Board. He stated that he already had four chickens and coop and would follow the guidelines to move the coop away from the property line. Ms. Amber Bischoff, also of 25 Mulberry Street, spoke to the Board as well and confirmed that they had not received a permit prior to obtaining the chickens and the coop and they were working to follow a feeding schedule and utilize a compost barrel.

Mr. Correia confirmed that the Board of Health had been made aware of the unpermitted chicken coop and had advised him to seek an after-the-fact permit from the Board of Appeals along with taking steps to move the coop and follow best practices for handling manure, food, and water, along with working to mitigate any rodents.

Mr. daSilva cited the letters submitted by the abutters regarding rodents in the area. Mr. Manchester and Ms. Russel asked questions regarding the rodents in the area, with Mr. Correia stating that they had seen fewer rodents recently and that his dog had killed two. There were questions regarding methods used to control for rodents and Mr. Correia explained that they had set up traps. Ms. Russel advised that they not use rat poison.

Michael Silva of 19 Mulberry Street spoke against the petition. He had previously submitted a letter and photographs to the Board documenting his issues with rodents in the neighborhood and continued to have issues, noting that his dog had killed a rodent that weekend.

Ray Gardner of 69 Bridge Street spoke against the petition. He stated that the small size of the properties in the neighborhood were not appropriate for raising chickens and that he had also observed issues with rodents.

Manuel Ribeiro of 23 Mulberry Street spoke against the petition. He had submitted photos to the Board of the issues with rodents on his own property, as well as unfavorable evaluation he had received from an exterminator.

Jeremy Cain of 18 Mulberry Street spoke against the petition. He reported similar issues with rodents on his property, having killed five in the past week.

David Tripanier of 26 Mulberry Street spoke in favor of the project and stated that the issues with rodents in the neighborhood were a long-standing problem even before the chicken coop was built.

Mr. Carr went over the issues with the coop having been erected on the property without a special permit from the Zoning Board of Appeals or an animal permit from the Board of Health and how the coop had attracted rodents to the neighborhood based on the photos and statements presented to the Board. He recommended that the applicant work with an exterminator to handle the rodent issue.

**Ruy daSilva made a motion to approve Special Permit to authorize housing chickens on the property in a Single Residence (RA) district not to exceed 10 chickens, not to include any roosters, for the coop to be at least 20 feet from any dwelling and at least 10 feet from the property line, and for the applicant to submit an operations and maintenance plan for manure, food, and water to the Board of Health, pursuant to Fairhaven Zoning Bylaw 198-16, Use Regulation Schedule and Chapter 405, Animals and was seconded by Daryl Manchester.**

**The motion failed to pass via roll call vote with Ruy daSilva, Daryl Manchester, Patrick Carr, Peg Cook, and Kristen Russell against (0-5).**

- 4. REF#: ZBA-024-014: 10 Oxford Street, Map 13, Lot 2. Applicant and Owner: James Novakoff.** Applicant seeks a Variance to enlarge an existing living room and bedroom of an accessory beach house, as well as convert the deck to a three-season room to a proposed total 856 sq. ft. as compared to the maximum 700 sq. ft. allowed for an accessory building, pursuant to Fairhaven Zoning Bylaw 198-22 A (1), Accessory Buildings and uses.

The applicant, James Novakoff, spoke to the Board. He explained that he had been previously granted a Variance for this same project (See ZBA-022-024), but that the Variance had lapsed, and he wished to reapply to renew it. He explained the reasons behind the expansion of the existing beach house and to replace the previous deck – which had been removed due to damage - with a three-season room.

Mr. Furtado inquired about the distance of the beach house from the property line, with Mr. Novakoff estimating that it was approximately 75 feet away.

Mr. daSilva brought up his concerns with a lack of a site plan. When asked, Mr. Novakoff mentioned that there were plans to also present at this property to the Conservation

Commission and that a site plan would be a part of that application. Mr. Manchester and Mr. Carr agreed that they would like to see a site plan for this project.

Ms. Fidalgo answered questions from the Board regarding the contents of the application and the advertisement that she had sent out.

Mr. Carr recommended that the applicant ask for a continuance to the next meeting.

Ms. Goyer asked if the project should've been submitted as a special permit instead of a Variance. Mr. Carr explained that Variances would require a more stringent review.

Ms. Fidalgo voiced her concerns with resubmitting the project for the next meeting as the Building Commissioner would not be available to review the project before the legal ad deadline for the October meeting.

Mr. Carr outlined a few options for the applicant, and Mr. Novakoff decided to request for the petition to be withdrawn without prejudice to have time to review the project before resubmission.

**Ruy daSilva made a motion to withdraw the petition for ZBA-024-014: 10 Oxford Street without prejudice and was seconded by Daryl Manchester.**

**The motion passed unanimously with Ruy daSilva, Daryl Manchester, Patrick Carr, Peg Cook, and Amy Goyer in favor (5-0).**

5. **REF#: ZBA-024-015: 20 Bluepoint Road, Map 43 B, Lot 180.** Applicant: Jason Costa. Owner: Tara Costa. Applicant seeks a Special Permit for a Home Occupation business to operate a Plumbing business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades.

Jason Costa spoke the Board. He wished to have a home office for his plumbing business and required this special permit before he could register for a business license with the Town Clerk's office. Ms. Fidalgo had informed him of the home business requirements when he submitted his application. He had no plans for any other employees or storage of materials. He would use a single vehicle that would be parked in the home's driveway.

There was no public comment on this petition.

**Ruy daSilva made a motion to approve a Special Permit for a Home Occupation business to operate a Plumbing business, pursuant to Fairhaven Zoning Bylaw 198-23. B. (4) Building trades and seconded by Daryl Manchester.**

**The motion passed unanimously with Ruy daSilva, Daryl Manchester, Patrick Carr, Peg Cook, and Amy Goyer in favor (5-0).**

Ms. Fidalgo explained the process for receiving his special permit and business license to Mr. Costa.

Mr. Carr adjourned the meeting at 6:49 PM.

Respectfully Submitted,  
Stephanie A. Fidalgo,  
Recording Secretary,  
Board of Appeals

*Approved, October 2, 2024*