

Board of Appeals

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting MinutesFAIRHAVEN TOWN CLERK
RCUD 2025 MAR 5 AM9:50**I. ADMINISTRATIVE BUSINESS****1. Quorum/Attendance**

Ruy daSilva opened the December 3rd 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, Kristen Russell, Amy Goyer, and Katharine MacPhail.

On Zoom: Patrick Carr

Absent: Dereck Furtado

Recording Secretary: Suzanne Vieira, present in Town Hall.

Building Commissioner: Richard Forand present in Town Hall.

2. Acceptance of the October 1st 2024, meeting minute's

Ruy daSilva made a motion to accept the minutes of the October 1st, 2024, meeting and was seconded by Daryl Manchester.

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

III. PUBLIC HEARINGS:

- 1. REF#: ZBA-024-019: 343 Huttleston Ave, Map 31, Lot 112. Applicant and Owner: Jose Gomes. Applicant is seeking relief of 100 foot frontage of existing lot 15,058. Maximum lot coverage is 15,000, pursuant to Fairhaven Zoning Bylaw 198-18 Use Regulation Schedule.**
- 2. Before hearing Jose Gomes request. Amy Goyer asked Vice Chair Ruy DaSilva if they should assign one of the associate members to vote. Ruy daSilva appoints Kristen Russell. Ruy DaSilva motions, Amy Goyer seconds his vote.**

Mr. Gomes requests to sub divide his property. He explains he has the square footage just not the frontage. Requesting build a single family.

Ruy daSilva asked if there was anyone for or against petition. Asking Mr. Forand if he has any issues. Mr. Forand states he has walked the property and agrees that it is a good use of the property to subdivide. Amy Goyer asks what the actual variance is. Mr. Forand explains that it is for frontage. Amy Goyer asks about lot coverage, Mr. Forand states no issues.

Amy Goyer asks if the driveway she sees on the map is staying the same. Mr. Gomes explains that that is not part of the current property. It is the neighbors. Ms. Russell asks if he is just building on lot A.

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

3.REF#: ZBA-024-020: 8 Allen Street, Map 6, Lot 15. Applicant and Owner: Krystyna Pavao. Applicant seeks a variance for a side setback for a garage in an RA district. 1.0' to fence. Applicant is also looking for a variance for building coverage of 30% they are looking at 38.65%, pursuant to Fairhaven Zoning Bylaw 198-18 Use Regulation Schedule.

Ms. Pavao introduces herself and wife. Explaining she is seeking relief to build a garage and an addition for a new bedroom.

Ruy daSilva asked if there was anyone against or for. Not one spoke. Ms. MacPhail asks that she is confused by the survey what you have for building coverage 2095 SF existing 2709 proposed. The lot coverage is less. Lot coverage is supposed to be all the impervious area on the lot. Mr. DaSilva asks Mr. Forand to explain. Ms. MacPhail the lot coverage is less than building coverage. Mr. Forand stats that it is not correct. The information on the survey is incorrect. The information was flip flopped. He's got the building coverage as the lot coverage and the lot coverage as the building. Ms. Russell is asking Mr. Forand if he is guessing or sure. Concerned that it is incorrect information not flip flopped. Ms. Pavao explains there is another addition. Ms. Macphail asked about the lot coverage she is confused at what the information is on this survey.

Ruy daSilva makes a motion to table it for a further meeting. So they can get the plans straightened out. Ms. Goyer explains there is not enough information and to withdraw to redo the figures. Ms. Goyers are going to ask when they come back about setbacks and more about the lot coverage. She continues to explain the variance needs more information about the land. She says that it is a substantial setback problem. Garage side in particular. Ms. Pavao

explains that like some of the houses are non-conforming. Ms. Goyer explains to speak with the building commissioner about asking for a special permit as opposed to a variance more leeway with special permits than variance. Let's her know to withdraw the variance and apply for special permit. Mr. daSilva informs her to have her engineer come with them. Mr. Manchester explains that they have to re-advertise for special permit. Ms. MacPhail asked them to fill out the worksheet to give evidence why they need this. Have the engineer mark off going to be and where the set back is right now. Ms. Goyer explains that variance don't care about needing more room. Explains to request for special permit. Ms. Pavao asks for withdrawal without prejudice. Mr. daSilva asks for a motion the motion to be passed unanimously.

The motion passed unanimously with Ruy daSilva, Daryl Manchester, Peg Cook, and Amy Goyer, Kristen Russell voted in favor of the withdrawal (5-0).

4. REF#: ZBA-024-021: 12 Huttleston Ave, Map 12, Lot. Applicant and Owner: Fairhaven High School. Applicant seeks to appeal the commissioner's decision on equipment barn. Pursuant to Fairhaven Zoning Bylaw 198-22 Use Regulation Schedule.

Ruy daSilva stated that the attorney wanted to postpone meeting. The attorney for the school system Michael Rosen is unaware of the request to postpone meeting. He is requesting that the meeting goes forward with all in attendance. Amy Goyer ask Mr. Vice chair, she is asking to move the meeting forward with what our attorney said to go forward. Mr. Manchester disagrees with moving forward, he found out yesterday that our council wanted to represent us. She is out of the country. ZBA is unaware that they are going to be here. He wants council to be here. He also states that he appreciates the efforts that the school's council is present but not comfortable moving forward. Our council told them they were going to be here from Mr. Rosen. He said they stated to move forward with the meeting. Ms. Goyer asks to take a vote to move forward or postpone. Mr. Manchester he is stating that they don't know if they have question. Mr. Rosen said to move on with the meeting and at the end you can ask question. Mr. Manchester ask Mr. Rosen if he would let his client appear without council. Ms. Russell is stating you don't know what you don't know. Stating that we don't know what questions to ask. Mr. daSilva stated that the old building commissioner was supposed to come down. Upon finding out that council will not be here he didn't show up. Cr. daSilva is stating there is a lot going on with this project. Wants everything in place. Mr. Manchester stated that the email that was sent out was attorney-client privilege not to be open to the public. Ms. Goyer said she can give us an opinion. Mr. Rosen and ZBA are going back and forth about having this hearing or not. We don't have representation. We did not have legal counsel of our own. Mr. daSilva reiterated we don't have council. That she (council) turned around to tell you to move forward with the meeting. Ms. Russell stated that is not actually what she said the meeting was going forward not that she instructed us (ZBA) to go forward. Mr. Rosen stated she was going to be here but the meeting is going forward. Ms. Russell stats that what

she said before, we don't know to formulate the questions or what questions to ask. Ms. Goyer asks for an executive discussion. Ms. Goyer is going over the email that council sent it. Mr. Manchester acknowledges the email from council. Stating that if being represented by an attorney that we shouldn't move forward if they are not present. He states he doesn't want to and that he is an attorney. Ms. Goyer asks for a motion to go into executive session. Ms. MacPhail 2nds to motion. Mr. daSilva asks for or against. 2/3 not in favor for the session. Mr. daSilva states again to postpone meeting. Too much is going on with this project. He wants it done the correct way, so we are diligent with this decision. Move this to next month so we have proper council. Stating to be safe and no lawsuits. Stating this project should have been in front of the board a long time ago. Mr. Rosen states he appreciates everyone's opinions. States that they are not the applicants and asks if they are here. Mr. daSilva even though you spoke with an attorney no one spoke with us. Now the conversation goes into who the applicants are. Mr. Manchester says it is a dialogue with 6-7 signatures on it. No one signed an application. Mr. Rosen is asking since there is no application or denial from the building commissioner that it should be dismissed. Need an aggrieved party, who is the applicant and who is the aggrieved party. Under 40 A we need an application and an aggrieved party. Mr. Manchester agrees but states this is all the information that was giving to them, it is misguided information they are repeating all the information that would have given them the reason to be here. Mr. Manchester says the signatures are from Sept/ October before the commissioner issued the building permit on 10/15/2024. Mr. Rosen is stating that no one has appealed the actual petition. Mr. Manchester is stating again we need advice from council. Ms. Goyer says since we are not voting, moving this forward nothing on the table that says you cannot continue building pursuant to your current permits? Mr. Rosen agrees. He is stating that there is a lot of money involved, he doesn't say to go forward or not, but doesn't want to see the unfinished building go through another winter. He is asking if Mr. Forand if he can continue to build. Saying they can keep going. If something goes bad on them it's on the school. Mr. daSilva that we need legal counsel. Asking which permits were pulled. Mr. Forand states all we have is building permits not electrical or plumbing. Mr. Rosen asks about permits to Tara. Mr. Rosen is explaining we are not opening the hearing. That the ZBA is still discussing the motion as is. He also states that if Ms. Tara does answer any question it would be prejudice the meeting next month. Mr. Manchester states that they haven't opened the meeting so no questions to be asked. Mr. Oliveria comes to the podium asking for a letter he submitted. Stating where are bus drivers trying to push it through. Mr. Carr joins via zoom. He strongly suggests not to open the meeting and to postpone for another month. Ms. Goyer is stating that is not what town council said. Mr. Carr said attorney-client privilege and we should be discussing this right now. So that it should end it right there. Move forward next month. Mr. Rosen asking to approach with pictures, he presented pictures and AG regulations recuses relating to persons involved in ZBA. Someone from the ZBA financial interest. Mr. Manchester states there is nothing before the board right now and should not be presenting anything to us. Mr. daSilva reiterates about speaking to legal counsel. So many things going on with this project. A legal matter for the town itself. Postpone until next month. Mr. Manchester asks to move this meeting until January 7th. Ms. Russell seconds the motion. Mr. Rosen is asking

when he will be on the meeting on the 2nd hearing. Ms. Goyer states that not everyone on this board is of the opinion that there should have been a request for a variance in any point in time prior to this. Ms. Goyer asking for if there anything about questions about standing if something formal can be in front of them before next meeting.

4. REF#: ZBA-024-022: 62 Maitland Street, Map22B Lot 75A. Gail Rebello. Applicant seeks to withdraw without prejudice

Mr. daSilva asks for a motion for withdrawal Ms. Russel so moved 2nd Ms. Goyer.

Mr. daSilva asks for a motion to dismiss 5-0 in favor