

Board of Appeals

Minutes

April 1st, 2025

Board of Appeals

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting Minutes

I. ADMINISTRATIVE BUSINESS

1. Quorum/Attendance

Patrick Carr (chair) opened the April 1st, 2025, meeting at 6:00 PM. The board members introduced themselves and he 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: Patrick Carr, Ruy daSilva, Peg Cook, Kathrine MacPhail, Robert Hanna and Daryl Manchester

On Zoom: Kristen Russell and Derek Furtado

Absent: Amy Goyer

Recording Secretary: Suzanne Vieira, absent.

Building Commissioner: Richard Forand was present in the town hall.

2. Meeting minutes: Board approves the March 4th minutes unanimously.

II. PUBLIC HEARINGS:

1. REF#: ZBA-025-024: 481 Sconticut Neck Rd, Map 29, Lot 027. Applicant and Owner: Bradley Johnson. Applicant reapplying for a variance instead of special permit for 8' fence instead of 6' fence, pursuant to Fairhaven Zoning Bylaw 198-19B Use Regulation Schedule.

The applicant explains their request for an 8-foot privacy fence instead of the standard 6-foot fence along their northern property line. They cite the close proximity of their house and planned patio to the property line, as well as their neighbors' elevated entrance and deck, as reasons why a taller fence is necessary for privacy. The proposed fence would extend 120 feet from the northeastern corner of their house, past several accessory buildings on the neighbor's property. The applicant has provided a marked-up certified plot plan showing the

proposed fence location.

The applicant presents a plan to install an 8-foot tall fence along their property line for privacy, which exceeds the 6-foot height limit. No changes to the design just needed a variance. Rick Forand explains everything is ok with the variance. Patrick Carr asks Catherin MacPhail to be a voting member, she agrees. Board approves unanimously.

III. REF#: ZBA-025-026: 2 Oxford Street, Map 13, Lot 24. Applicant and Owner: Robert and Nina Weeks. Applicant is seeking determination for side yard vs front yard. Pursuant to Fairhaven Zoning Bylaws 198-22-A-3 Accessory Building use & 198-33 Definitions.

Nina and Robert Weeks stated that the front door faces Oxford Street. Nina states the side yard essentially is considered the front but it is not. It faces the paper street, which they are in the process of purchasing. Patrick Carr clarifies that the demarcation line to split what is considered to be the front yard, rest would be the side yard. Nina is stating that on the Oxford side is a parking lot because it used to be a Bed and Breakfast (part of the property). They want to take that out and put in grass. The board is trying to clarify the property, street and paper street is.

Patrick Carr ask Rick Forand the building commissioner to explain what the street consists of. He has explained it is not a street it just ends. The building commissioner asked Tim Cox the harbor master if he needed access he said no. Rick is explaining that if the road was paved it would have been a front yard, because it is not, it is a side yard. This is why they are here tonight.

Ruy DaSilva is asking where the pool is actually going to be. Rick is stating this is why they are here to determine if it is a side yard or front yard. Ruy is looking for a site plan.

Patrick is asking what exactly the determination request is. Two sides one is front one is the side. Questioning were the demarcation line is. What are you looking to do to put this pool in?

Mr. Forand is stating that they are still looking just to determine front or side. Then it will go in front of conservation for the actual pool.

Patrick Carr is asking if it is a variance. Mr. Forand responds that there are no issues with setbacks. Looking for a variance or special permit will need to determine what the street is. IF the street is determined an accepted street. Then will determine where the pool will go. BPW is involved they only take care of where the driveway is, the end of the pavement.

Katherine MacPhail would like to see more clarity on what you are suggesting for the property layout. Looking for more clarification on what they are looking for with the actual street and paper street.

Patrick Carr states to Nina who asked where her frontage is, can that be considered her side yard. Mr. Carr explains the board cannot make that determination. BPW needs to mark where the street ends and if they sell the paper street to them. They will then pay taxes. ZBA cannot make decisions on streets. Daryl Manchester explains that it needs to go to town meeting and BPW. Once they determine where it ends then it is your frontage.

Nina is looking to go to town meeting in November to determine this.

Bob Hannan is explaining that he isn't sure if the pool is allowed in the front of the house if that is approved as frontage.

Patrick Carr is explaining it might have to go to BPW and Planning. Daryl is stating that they might not need to come back to ZBA if it is approved through those other boards.

Patrick suggest to withdraw this without prejudice. To go in front of planning to move forward.

Patrick Carr suggest to ask about fees so they won't be charged twice.

Board voted unanimously to be withdrawn without prejudice.

III REF#: ZBA-025-027: 10 Wilbur's Point Drive, Map 43, Lot 81-83. Applicant and Owner: Lars Vinjerud. Applicant is seeking a 13.4 ft. variance from the front setback (16.6 ft. vs. 30ft) and a 5ft. variance from the rear setback (25 ft. vs 30ft.) Pursuant to Fairhaven Zoning Bylaws 198-18.

Schneider, Davignon & Leone is representing Lars Vinjerud. (Very hard to understand). Showing what exists as of now. House was built in 1980 on piers 4' feet. Can't be vertically or horizontally. So wants to take house down to build new. Right hand side is a lot of vegetation and beach area.. West is a maintained lawn. Greens on top of property wants to keep vegetation so cars can't go through. Large seawall to protect home. Proposed house is a 1 bedroom, loft type bedroom. Ranch style home. Expanding to the west. Septic system has been approved and the project is also approved by conservation. Setback for the rare for mean high water 22.5. House is east to west so the expansion doesn't get closer to existing setbacks. No deck on street side. Set back to chimney is 16.6. Increase of improvement 16" Set back to high water slight improvement. Meets lot coverage/building coverage. Seawalls been upgraded.

Patrick Carr asks building commissioner to speak. He sees no detriment but an improvement. Set backs are lesser. Mr. Carr asks were set back decrease, Mr. Forand states front and back of house. Deck is going to be less then what is there now. It's a smaller footprint.

Katherine MacPhail is asking why a special permit instead of variance it's an existing non-confirming small lot. Engineering firm explains why it is a special permit. Mr. Forand explains our by-law should be a special rebuild, our bylaw says it has to go to zoning. It should have been a simple special permit.

Discussion of our bylaws.

Daryl is stating that it is lessening what is there. Daryl approves. Patrick Carr asks if anyone in the public is there. Robert Davis at 905 Sconticut Neck Road is for project.

David Schwamb 903 Sconticut Neck Road is for the project.

Mr. Forand is asking if we can approve this through a variance. The non-confirming use is for a variance.

Mr. Carr is asking about the deck, not in consideration of the building. Asking about the buffer zone not buffer zone of 25' would decrease because of weather condition. It retreats what you would use. Nature is the hardship as well.

Mr. Carr is asking for a vote from the 5 full time members. Ruy motions to approve Daryl 2nds. Roll call vote unanimously approved project.

Bob Hannan asks if there are questions or issues where does he go. Mr. Carr explains protocol 13 can approach either the chair or town counsel where the rules are. Asking about non-confirming lots in RR zones. Ask the planning director for changes on confirming and non-confirming lots. Generally what the by-laws are. Asking steps to correct and make by-laws more understanding. Katherine states that we can put in a paragraph about bylaws instead of rezoning entire town. Mr. Manchester is explaining that bending the by-laws so people can allow to use their own property. A discussion continues about the by-laws to go through planning. Looking for grant to change bylaws.

Patrick Carr requests to close meeting. Ruy motions to adjourn Daryl seconds, the board approves to adjourn the meeting unanimously.