

Not before (8/17/2025)

Ferreira
Island View Rd.
FAIRHAVEN TOWN CLERK
RCUD 2025 JUL 28 PM3:01



Fairhaven Planning Board

Town Hall
40 Center Street
Fairhaven, MA 02719
Telephone (508) 979-4023

I, Elisabeth E. Horan, Town Clerk of the Town of Fairhaven, hereby certify pursuant to MGL Ch. 40A § 11 that the decision of the Fairhaven Planning Board was filed in the Office of the Town Clerk on (date:) _____ and that twenty (20) days have elapsed after the decision has been filed.

I further certify that:

☐ NO APPEAL pursuant to MGL Ch. 41 § 81BB. has been filed with the Fairhaven Town Clerk.

☐ NO APPEAL has been filed in the _____ Court, case number _____,
Entitled _____ vs. _____.

ATTEST: _____ Date: _____
Elisabeth Horan, Town Clerk

Notice of Decision on an Application for a Definitive Subdivision Plan

The Fairhaven Planning Board as required by Massachusetts General Laws Chapter 41, Section 81T and Town of Fairhaven Subdivision Regulation, Chapter 322, held Public Hearings on: May 27, 2025; June 24, 2025; July 15, 2025; and July 22, 2025.

PETITIONER(S): Peter Armanetti
23 Mattapoisett Road
Rochester, MA

OWNER(S): Thomas and Barbara Ferreira
3 Nakata Avenue
Fairhaven, MA

LOCATION: Map 43, Lot 201
Private way listed as Island View Road off of Sconticut Neck Road
Fairhaven, MA 02719
Book: 6019, Page: 114

PETITION: The applicants request a Definitive Subdivision approval to determine a road standard and to create two "conforming" lots (30,000 square with 140'+ feet of frontage along the private way Island View Rd.) in order to construct one single family house on each resulting lot.

ACTION: Petition GRANTED with the following conditions and waivers by seven members in favor. Those in favor: Miles Grant (online); Sean Powers, Jessica Fidalgo, Sharon Simmons, Patrick Carr; Ruy DaSilva; and Kevin Grant. Against: None. Recused: Diane Tomassetti.

PLAN:

- "Definitive Subdivision Plan of Land", surveyed for Peter Armanetti, 23 Mattapoisett Road, Rochester, MA. Plan of Land is for Map 43, Lot 201, Island View Road, Fairhaven, Massachusetts. The Plan consists of 5 sheets (24" X 36") showing: Cover Page; Existing Conditions; Layout; Grading and Utilities; and Notes, Legend & Details. The Plan was prepared by: Farland Corp., 154 Huttleston Ave., Fairhaven, MA 02719; drawn by Stevie Carvalho; stamped by Christian A. Farland, P.E. (Civil). Dated May 30, 2025, with a final revision date of July 9, 2025. Scale is 1 inch = 40 ft.

APPLICATION PACKAGE:

- The Definitive Subdivision application including: Form C; Form G; narrative dated May 6, 2025; abutters list; and a letter from the current owner of Map 43, Lot 201, Thomas Ferreira confirming the intent to sell Map 43, Lot 201 to Peter Armanetti.

OTHER EXHIBITS: On file at the Fairhaven Planning Department Office.

- Minutes of the Fairhaven Planning Board Meetings on the following dates May 27, 2025; June 24, 2025; July 15, 2025; and July 22, 2025.
- Staff Report dated: July 9, 2025.
- List of Requested Waivers, dated July 15, 2025.
- Photos of area of and around proposed subdivision provided by abutters, various dates.
- Revised Form C narrative, dated June 20, 2025.

FINDINGS OF FACT: The Planning Board finds, based on the information submitted and testimony from the public hearing, that:

- The proposal is to determine a road standard for two new "conforming" (10,000 square feet between 2 lots) in order to provide sufficient frontage to construct a house. The applicant is proposing to construct a gravel roadway on a paper street.
- The entire property falls within the 100-year floodplain. The property is in the Velocity Flood Zone.
- 1988 - The property was zoned Rural Residence (RR) which was rezoned to increase the minimum lot size to 30,000 sf and 140 feet frontage.
- 2022 - An substantially similar plan was submitted for Preliminary Subdivision Review in 2022 by the applicant (Armanetti).
- May 2025 - An application for a Definitive Subdivision was brought to Town Hall. The application was stamped for the Land Use & Planning Department by Sue Masten.
- May 7, 2025 - The application for the proposed two-lot definitive subdivision was stamped in for Definitive Subdivision review.

ZONING AND SUBDIVISION CRITERIA: Subject to these findings and the conditions and waivers set forth herein the Planning Board finds that the project as proposed in the final amended Plan Set submitted as part of the application and dated July 9, 2025 will be consistent with the general purposes and intent of the Fairhaven Zoning Bylaw and that the grant of the Definitive Subdivision is in the public interest and will preserve community values because, among other reasons:

With respect to **§322: Subdivision of Land:**

§ 322-7 Compliance with Zoning Bylaw required. The Board finds that the design does comply with the zoning lot size, frontage and subdivision rules and regulations barring the requested and granted waivers.

The Applicant requested and Planning Board issued the following waivers:

- **§ 322-14.C.** Waiver of Contents subdivision submittal requirements.
 - (15) Location of all permanent monuments.
 - (20) Elevation and limits of the base flood (all of proposed subdivision is in FEMA VE 20).
 - (21) Cross-sections typical of each street, roadway and sidewalk to be constructed.
 - (22) Separate plan and profiles of every street, showing the following data: (a-i)
- **§ 322-14.D.** Waiver of additional subdivision submittal requirements.
 - (4) Easements (while the planning board cannot require easements of the applicant, they can require any agreed to easements be shown on the approved plan).
 - (7) Construction Costs.
 - (8) Street-lighting.
- **§ 322-14.L.** Waiver of Performance guarantee.
 - (1) Approval with financial performance guarantees.
 - (2) Letters of credit, three-party agreements etc.
 - (3) Surety bond details.
 - (4) Approval with covenant.
 - (5) Completion time schedule.
- **§ 322-14.O.** Submission of revised plans, additional materials, etc.
 - (1) Revised plans Form C and fees.
- **§ 322-14.P.** Private roadway maintenance and open space management.
 - (1) Formation of a homeowners' association for maintenance of private way.
 - (5) Homeowners' association deed requirements, as well as (a)[1]and[2].

§ 322-15 Section 7 Design Standards

- **§ 322-15.B.** Streets, sidewalks, water systems, sanitary sewers, storm drain systems, public and private utilities and other infrastructure.
- **§ 322-15.C.** The subdivision shall be so designed as to protect the safety, convenience and welfare of the occupants of the subdivision and the Town of Fairhaven.
- **§ 322-15.E.** Nonbuildable lot.
- **§ 322-15.F.** All work and materials shall conform to the latest requirements of the American Disability Act (sic).
- **§ 322-15.G.** The context of work required is as shown upon approved plans and is in compliance with the Street Design Drawings in Appendix C.

§ 322-16 Streets:

- **§ 322-16.A.** Street design standards Table A. Waiver of hammerhead requirement that no part may be used for a driveway to the lot or for parking of vehicles.
 - (2) The proposed streets shall conform to the Master or Study Plan.
 - (7) The center line of roadways shall coincide with the center line of the street right-of-way
 - (13) Grading and location of elements shall conform to the standard cross-sections illustrated in the Street Design Drawings (Appendix C).
- **§ 322-16.B.** Street design standards (Table A, Chapter 322).
- **§ 322-16.C.** Street cross sections (Appendix C).
- **§ 322-17.A.** Sidewalks, school bus waiting areas; Sidewalks.
- **§ 322-17.B.** Sidewalks, school bus waiting areas; Sidewalks be handicapped accessible.
- **§ 322-18.A.** Adequate access from public way; adequate vehicular, pedestrian, and/or bicycle access from a Town, county or state public way or private way.
- **§ 322-18.B.** Adequate access from public way; width of a public way from which a subdivision has its access is considered by the Planning Board to be inadequate to either provide for emergency services or carry the traffic which is expected.
- **§ 322-18.C.** Adequate access from public way; existing surrounding municipal infrastructure (e.g., street width and construction, sanitary sewer, public water, storm sewer, etc.) is insufficient and/or incapable of handling the additional volumes (e.g., traffic, sewage, stormwater, etc.) anticipated.
- **§ 322-19.** Routes out of subdivision to be provided.
- **§ 322-21.A.** Open space; Require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air.
- **§ 322-21.B.** Open space;
- If the Board requires the developer to set aside land for parks or open space, it shall determine that such land is suitable for the intended purpose with respect to soils, topography, drainage or other characteristics, which could restrict the use of the site.
- **§ 322-22.** Fencing.
- **§ 322-23.** Guardrails.
- **§ 322-25.A.** Landscaping; street trees and tree belts; Tree belts shall be provided on each side of the roadway.
 - (1) The top six inches of tree belt shall consist of good quality loam extending to the right-of-way.
 - (2) There shall be no small trees or shrubs, and no herbaceous plants taller than one foot, within the tree belt.
- **§ 322-25.B.** Landscaping; street trees and tree belts; Street shade trees shall be on both sides of subdivision streets in the tree belt.
- **§ 322-25.C.** Landscaping; street trees and tree belts; Street trees shall not be permitted within 25 feet of the curbline of the intersection of two streets.
- **§ 322-25.D.** Landscaping; street trees and tree belts; Trees shall be mature deciduous trees or newly planted trees of no less than two-inch caliper.
- **§ 322-25.E.** Landscaping; street trees and tree belts; Street trees shall be deciduous shade trees, and no more than 35% of any one species.
- **§ 322-25.F.** Landscaping; street trees and tree belts;
- Planting operations and requirements for street trees shall be in accordance with the American Association of Nurserymen Standards for Planting.
- **§ 322-26.** Stormwater management.
- **§ 322-27.C.** Utilities; Protection from flooding.
- **§ 322-27.D.** Utilities; Location of utilities underground.

Part 8: Required Improvements for Approved Subdivision

- **§ 322-30.A Streets and Roadways;** The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
- **§ 322-30.B Streets and Roadways;** All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with suitable material.
- **§ 322-30.C Streets and Roadways;** Traveled ways. Traveled ways shall be provided with a foundation consisting of at least 12 inches' compacted thickness of good binding gravel.
- **§ 322-30.D Streets and Roadways;** Prior to paving, all sewer, water, gas, and underground cable connections shall be installed to the street right-of-way lines at each lot.
- **§ 322-32.A . Curbing and Cape Cod berm;** Curbing is required, lining both sides of all collector streets, minor streets and lanes.
 - (1) Commercial/Industrial; all curbing shall be granite.
 - (2) Residential; Curbing may be one of the following: (a) Type 1 bituminous concrete
(b) Type 2 bituminous concrete
(c) Cape cod berm
 - (4) Granite curb corners
 - (5) Granite curb inlets
 - (6) Berms and curbs will conform with BPW standards and specifications.
 - (7) Planning Board may require specially constructed berms of gutters.
- **§ 322-33.A . Driveway approach areas and aprons;** Driveway approach areas from the edge of the roadway to the edge of the right-of-way shall be cement concrete a minimum of six inches thick.
- **§ 322-33.C . Driveway approach areas and aprons;** Planning Board may require the developer to construct certain driveway approach areas during the construction of the subdivision.
- **§ 322-36.A. Monuments;** Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets and at other points as shown in the definitive plan and where, in the opinion of the Board, permanent monuments are necessary
- **§ 322-37.A. Fire alarm system and emergency water supply systems;** The municipal fire alarm system shall be extended within the subdivision where feasible.
- **§ 322-37.B. Fire alarm system and emergency water supply systems;** Subdivisions not served by a public water system shall be provided with an emergency water supply system or, where a natural pond exists, a dry hydrant system, in accordance with the National Fire Code Manual, NFPA, Volume 12, Section 1231, Suburban and Rural Fire Fighting Regulations of 1975, upon the recommendation of the Fairhaven Fire Department.
- **§ 322-37.C. Fire alarm system and emergency water supply systems;**
A natural pond proposed to be used as a backup source for water for firefighting shall have adequate access to such pond to accommodate the weight and size of a fire pumper truck.

CONDITIONS:

1. The subdivision shall be constructed in accordance with the approved plans noted above consisting of five (5) sheets prepared by Alan Ewing Engineering, Inc. 261 New Boston Road, Fairhaven, MA 02719-5301. Final approved plan dated revised May 4, 2021. (on file at the Planning Department)
2. The Planning Board hereby approves the following waiver(s) to Subdivision Regulations:
 - 2.1. §322-14.C. (15), (20), (21), and (22)
 - 2.2. §322-14.D. (4), (7), and (8)

2.3. §322.14.L. (1), (2), (3), (4), and (5)

2.4. §322.14.O. (1)

2.5. §322.14.P. (1), and (5)

2.6. §322-15. B., C., E., F. and G.

2.7. §322-16. A. (2), (7) and (13); B. and C.

2.8. §322-17.

2.9. §322-18. A. and B.

2.10. §322-19.

2.11. §322-21.

2.12. §322-22.

2.13. §322-23.

2.14. §322-25.

2.15. §322-26.

2.16. §322-27.C.

2.17. §322-27.D.

2.18. §322-30.

2.19. §322-32.

2.20. §322-33. A. and C.

2.21. §322-36.

2.22. §322-37.

3. The post-development surface runoff patterns shall be consistent with the grading plans. (on file at the Planning Department).
4. Prior to the start of site construction the applicant shall submit site and utility construction plans for approval and schedule a pre-construction conference with the Board of Public Works.
5. While the Town of Fairhaven may, at its discretion, provide any maintenance thereof including snow plowing, the existing private road Island View Road, drainage facilities and all utilities shall remain private and any maintenance thereof, snow plowing, and any associated cost, shall solely be the responsibility of the owner, heirs, and any successors of lot Map 43, Lot 201, and any subdivided lots created from lot Map 43, Lot 201 referenced herein.
6. The applicant referenced shall be responsible for compliance with conditions and/or restrictions of this Definitive Plan approval.
7. Any and all plans, which may be approved by the Conservation Commission or MassDEP pursuant to an Order of Conditions or Superseding Order of Conditions, shall be made part of the Definitive Subdivision Plan. If there is any inconsistency between the submitted Subdivision Plan and the plans as may be approved by the Conservation Commission, the applicant shall

submit an amended plan to the Planning Board for approval. Said amended plan shall be accompanied by a letter setting forth any and all changes from the submitted Subdivision plan.

8. The approval shall be contingent upon the State Department of Environmental Protection (DEP) upholding the Conservation Commission's Order of Conditions. If the DEP overturns the Conservation Commission's decision than the Subdivision approval shall be void.
9. The applicant shall record the definitive plan within six months of its endorsement.
10. Prior to endorsement, the applicant shall provide proof of recording of the subdivision.
11. The proponent must provide the town with either a proper financial security or a protective covenant per Section 322-8 C of the Fairhaven Subdivision Regulations prior to board endorsement of its approval on the Subdivision Plan.
12. Any modification to these conditions shall be submitted to the Planning Board for review and approval.

A copy of this Decision will be filed with the Town Clerk of Fairhaven. Within twenty (20) days of filing, any person aggrieved by the above Decision may appeal in accordance with Section 81V of Chapter 41 of Massachusetts General Laws.



Jessica Fidalgo, Vice Chair
Fairhaven Planning Board