

Board of Appeals

Town Hall • 40 Center Street • Fairhaven, MA 02719

Meeting Minutes

I. ADMINISTRATIVE BUSINESS

1. Quorum/Attendance

Patrick Carr opened the February 3rd, 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: Patrick Carr, Ruy daSilva, Robert Hannan, Peg Cook, Kenneth Kendal

On Zoom: Kristen Russel

Absent: Dereck Furtado, Daryl Manchester

Recording Secretary: Suzanne Vieira, present in Town Hall.

Building Commissioner: Richard Forand present in Town Hall.

Meeting summary

Quick recap

The Zoning Board of Appeals meeting focused on reviewing several applications for special permits and variances. The board discussed a request for a home-based hair salon, which was approved unanimously. They also considered an application for an in-home construction business office, but denied it after the applicant failed to attend three consecutive meetings. The board then reviewed a complex variance request for two existing cottages on a single lot, where they ultimately voted 3-2 against approving the variance with conditions, despite the applicant's argument that changing ADU laws created a hardship. The conversation ended with the board voting to adjourn.

Summary

Home-Based Business Zoning Decisions

The Zoning Board of Appeals meeting on February 3rd discussed two applications for home-based businesses. For the first application, Lacey Quinn sought a special permit for a hair salon at her home on

Homestead Avenue, which was approved unanimously by the board. For the second application, Brendan Wilson requested a special permit for an in-home office and storage for his construction business on Hawthorne Street, but the Building Commissioner, Rick Forand, suggested denying it due to Wilson's failure to attend previous meetings and his actual use of a location in New Bedford for his business

Home Office Denial and Concerns

The board discussed a home office application and voted to deny it after three attempts to present the ZBA. Carol Foto (neighbor) raised concerns about construction debris and rats near her property, leading to a discussion about contacting the Board of Health for an inspection., and Ms. Foto was instructed to call if she sees any issues with debris or pests, at which point the town would investigate.

ADU Variance Request Denied

The board discussed a variance request for two existing cottages on Starboard Drive that cannot meet current ADU size requirements due to their close proximity and flood zone restrictions. Dave Davignon, representing the property owner, explained that while the cottages predate 1961 and were part of a larger property, they cannot be legally maintained as ADUs under current regulations. The board denied the variance request, and the matter will be referred to the building commissioner.

ADU Zoning Relief Discussion

The meeting discussed a zoning issue regarding a property with two existing cottages that were part of a previously approved subdivision. The Planning Board had required one cottage to be torn down to meet zoning requirements at the time, but now the owner is seeking relief to keep both cottages due to the ADU law allowing accessory dwelling units. The Building Inspector explained that while the ADU bylaw wasn't in effect when the subdivision was approved, the current request would be approved as it aligns with new guidelines allowing ADUs by right. The board questioned where the hardship claim came from, as the owner had already sold some lots and made money, but the applicant explained that the timing of the ADU law's implementation after the subdivision approval created a hardship, as they would have pursued a different approach if they had known about the future ADU regulations.

ADU Variance Request Discussion

The board discussed a variance request for an accessory dwelling unit (ADU) on a property with two existing cottages. They determined that while the ADU would be under 900 square feet, it would still require a variance due to size restrictions. The board considered whether the applicant had demonstrated a hardship, noting that while the ADU law had changed, this was not necessarily a hardship case. The applicant proposed three conditions for approval, including requiring demolition of one cottage if damaged, allowing new construction while maintaining the smaller cottage, or following state ADU size requirements if both cottages are demolished.

ADU Proposal and Septic Concerns

The meeting discussed a proposal for an ADU (Accessory Dwelling Unit) on 3 and 5 Starboard Drive, which led to concerns from Kathryn Labonte and her husband Todd, who own property at 8 Starboard Drive. They expressed opposition through an email, citing issues with the community septic system, which is designed for 10 bedrooms and cannot accommodate more. The discussion clarified that the proposed ADU would not impact the existing system, as the lots in question already have allocated bedroom counts within the 10-bedroom limit. The conversation ended with an explanation of how the community septic system works and how the lots are allocated, emphasizing that any changes would require adherence to the established bedroom limits.

ADU Variance Request Denied

The board discussed a variance request for an accessory dwelling unit (ADU) that exceeded the maximum allowable square footage under state law. After reviewing the proposed 369 square foot variance for a 764 square foot ADU, the board voted on the motion with three conditions outlined in the proposal, but the vote failed to achieve the required supermajority. 2-3 vote failed. Peg Cook and Kenneth Kendal denied, Ruy daSilva, Patrick Carr and Kristen Russell approved. The conversation ended with the adjournment of the remaining agenda items.

Patrick Carr asked for a motion to adjourn, Kenneth Kendall made the motion Ruy daSilva 2nd the motion. The motion was unanimously approved, meeting adjourned.