



TOWN OF FAIRHAVEN  
**BOARD OF APPEALS**  
Town Hall, Fairhaven, Mass. 02719

April 5, 2011

The Fairhaven Board of Appeals met on April 5, 2011 at 6:00 PM at the Fairhaven Town Hall. Members present were: Mr. Peter DeTerra, Mr. Daryl Manchester, Mr. Rene Fleurent, Jr., Mr. Kenneth Kendall, Mr. Joseph Morra, Mr. Fran Cox and Ms. Peg Cook. The following petition was considered:

Petitioner: Lawrence D. Gillis 45 Alder Street Plat 43A, Lot 54 Certificate #20808  
198-18 Short 10' on the north side and 6' on the south side of the required 20' side setback, short 9' of the required 30' front setback and 4% over the maximum allowed lot coverage of 15% all within a RR District.

The petition was read. There were 39 abutters notified. The petitioner was represented by Rick Charon, P.E. of Charon Associates, Inc. of Rochester. Site plans were presented and are part of this record. The petitioner intends to raze the existing house and garage and construct a new modular house with decks on a flood zone compliant foundation. The setbacks requested are very similar to what now exists. The house will be 35' tall and will be serviced by town sewer and water. The petitioners would like to retire here. The variances are required because the lot is small.

In Favor: The petitioner Opposed/Questions: None

Motion to grant the Variance was made by Mr. Cox; seconded by Mr. Fleurent, Jr.

Mr. Fleurent questioned the need for a new dwelling. Mr. Charon stated the house is old and structurally not good due to numerous additions over time.

Board members voting to grant the Variance: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Morra and Mr. Fleurent, Jr.

The Board voted 5-0 to grant the Variance of ten feet (10') on the north side and six feet (6') on the south side of the required twenty feet (20') side setback and nine feet (9') of the required thirty feet (30') front setback and four percent (4%) over the maximum allowed lot coverage of fifteen percent (15%) all within a RR District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot size is small and the new dwelling will be the approximate size as the old dwelling. A Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra,  
Chairman



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Petitioner: Nancy P. Antin 91 Balsam Street Plat 43A, Lot 134 Certificate #19722  
198-18 Short 10' on the north and south sides of the required 20' side setback, short 10' of the required 30' front setback and 2% over the maximum allowed lot coverage of 15% all within a RR District.

The petition was read. There were 37 abutters notified. The petitioner was represented by Rick Charon, P.E. of Charon Associates, Inc. of Rochester. Site plans were presented. The petitioner intends to raze the existing house and garage and construct a new modular house with decks on a flood zone compliant foundation. Off-site parking will be provided under the dwelling. The setbacks requested are similar to what is presently existing. The house will be 25' tall and will be serviced by town sewer and water. The variances are required because the lot is small.

In Favor: The petitioner Opposed/Questions: None

Motion to grant the Variance was made by Mr. Cox; seconded by Mr. Morra.

Mr. Fleurent questioned the need for a new dwelling and if the owner intends to reside here. Mr. Charon stated the house is old and structurally not good due to numerous additions over time. It is likely the owner will retire here.

Board members voting to grant the Variance: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Kendall and Mr. Fleurent, Jr.

The Board voted 5-0 to grant the Variance of ten feet (10') on the north and south sides of the required twenty feet (20') side setback and ten feet (10') of the required thirty feet (30') front setback and two percent (2%) over the maximum allowed lot coverage of fifteen percent (15%) all within a RR District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot size is small and the new dwelling will be the approximate size as the old dwelling. A Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

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Petitioner: Josephine Lafleur, Pauline Joaquin, Adrien H Rock, Veronica Klosterman-Rock, Michael Ristuccia  
156 Cottonwood Street Plat 43A, Lot 79 Certificate #22499  
198-18 Short 6' of the required 30' rear setback and short 10' on the north side of the required 20' side setback all in a RR District.

The petition was read. There were 48 abutters notified. The petitioner was represented by Michael Ristuccia, Sr. of Fairhaven. This is a filing after the fact. A demolition permit was issued for the wrong structure and there was a misunderstanding by the owner with the Building Department. Consequently the existing structure was torn down completely instead of being re-built as originally intended. The new structure is on the exact same footprint as the original dwelling. The new dwelling will enhance the neighborhood. Prints of the proposed dwelling were presented and are part of this record.

In Favor: the petitioner Opposed/Questions: none

Mr. DeTerra stated that the Board takes these matters of commencing work without proper permits very seriously. Mr. Ristuccia stated the occurrence was a serious misunderstanding. He has secured building permits a number of times in town without incident. He assured the Board that this will not happen again.

Motion to approve the Variance was made by Mr. Cox; seconded by Mr. Morra

Board members voting to grant the Variance: Ms. Cook, Mr. Cox, Mr. Manchester, Mr. Kendall and Mr. Fleurent, Jr.

The Board voted 5-0 to grant the Variance of six feet (6') of the required thirty feet (30') rear setback and ten feet (10') on the north side of the required twenty feet (20') side setback in a RR District as required in Section 198-18 of the By-Laws for the following reasons:

- 1.0 The lot size is small and the new dwelling is on the exact same footprint. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

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Chairman



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Petitioner: Michael Holbrook 9 Phoenix Street Plat 3, Lot 137 Book 9172, Page 0015  
198-18 Short 2' on the south side of the required 10' side setback and 5% over the maximum allowed lot coverage of 30% all within a RA District.

The petition was read. There were 11 abutters notified. The petitioner stated the existing rear entryway-deck is in poor structural condition and they would like to replace it with a 12'x26' entryway-deck so that they could have some outdoor use of the property. Photos were presented and are part of this record. The lot is very small and there is no other place for the deck and entryway.

In Favor: The petitioners Opposed/Questions: Mr. & Ms. Ludwig, 3 Green Street in opposition because it is too close to their property and the deck will block their view. A photo was presented and is part of this record.

Mr. Holbrook stated he would decrease the deck to 12'x24' thereby eliminating the need for the side setback variance.

Motion to grant the Variance for lot coverage only was made by Mr. Kendall; seconded by Mr. Morra.

Board members voting to grant the Variance: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Morra and Mr. Kendall.

The Board voted 5-0 to grant the Variance of five percent (5%) over the maximum allowed lot coverage of thirty percent (30%) all within a RA District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot size is small and the rear entry way is not structurally sound. A Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra,  
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**Petitioner:** Donald Nolan 36 Reservation Road Plat 29A, Lot 234 Book 7832, Page 32  
198-18 Short 17' on the north side and 11' on the south side of the required 20' side setback, short 18' of the required 30' front setback and 22% over the maximum allowed lot coverage of 15% all within a RR District.  
198-22 Accessory Structures Short 4' of the required 5' property line setback.

The petition was read. There were 20 abutters notified. The petitioner was represented by Alan Ewing, P.E. of Ewing Engineering, Inc. of Fairhaven. Site plans and photos were presented and are part of this record. The petitioners require additional space due to the needs of the family. The structure has a deck that runs front to back on the structure and a shed on the north side that is attached to the dwelling. They would like to remove the shed and build the structure out to the shed area and then expand the deck so that it is symmetrical on the north and west sides. There remains a need for a storage shed for their summer goods and they would like to place a new 8'x10' shed on the south side next to the property line because it is the only space available. The lot is small and is odd shaped and a variance is required for the expansion. The Conservation Commission has issued an Order of Conditions. The property is served by town water and sewer.

In Favor: The petitioners Opposed/Questions: None

Motion to grant the Variance was made by Mr. Cox; seconded by Mr. Morra.

Board members voting to grant the Variance: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Kendall and Mr. Fleurent, Jr.

Motion to grant the Special Permit for Accessory Structures was made by Mr. Cox; seconded by Mr. Morra.

Board members voting to grant the Special Permit for Accessory Structures: Mr. Cox, Mr. Manchester, Mr. Morra and Mr. Fleurent.

Board member voting Not to grant the Special Permit for Accessory Structures: Ms. Cook

The Board voted 5-0 to grant the Variance of seventeen feet (17') on the north side and eleven feet (11') on the south side of the required twenty feet (20') side setback and eighteen feet (18') of the required thirty feet (30') front setback and twenty-two percent (22%) over the maximum allowed lot coverage of fifteen percent (15%) all within a RR District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot size is small and the proposal is for approximately the size of the existing dwelling. A Variance is required for the proposal. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

The Board voted 4-1 to grant the Special Permit for Accessory Structures of four feet (4') of the required five feet (5') property line setback as required in Section 198-22 Accessory Structures of the By-Law for the following reasons:

- 1.0 The lot size is small and there is no other place for the shed. Not granting the Special Permit would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra, Chairman



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Petitioner: John A. & Jessica Amarello 8 Tecumseh Avenue Plat 42A, Lot 120,121 Book 9667, Page 344  
198-18 Short 19' of the required 20' side setback, short 28' of the required 30' rear setback, 11% over the maximum allowed building coverage of 15% and 9% over the maximum allowed lot coverage of 25% all within a RR District.

The petition was read. There were 33 abutters notified. The petitioners were represented by Dana Pickup of CareFree Homes, Fairhaven. The family is expanding and more room is required. The proposal is to raze the existing dwelling and garage and rebuild on the same footprint on the existing non-conforming lot. The lot is very small and has a steep grade change. The existing dwelling is old and not structurally sound. There is no basement for storage. The garage is too small for even one car. The proposal is to attach a new single-car garage to a new dwelling with a basement. The lot is served by town water and a septic system.

In Favor: the petitioners      Opposed/Questions: none

Mr. Fleurent, Jr. asked if the wood shed on the lot would remain. Mr. Pickup indicated they will remove the shed if requested to do so

Motion to approve the Variance with the condition the wood shed be removed was made by Mr. Fleurent, Jr.; seconded by Mr. Cox.

Members voting to grant the Variance with the condition the wood shed is removed: Ms. Cook, Mr. Manchester, Mr. Cox, Mr. Fleurent, Jr.  
Member voting not to grant the Variance: Mr. Kendall

The Board voted 4-1 to grant the Variance of nineteen feet (19') of the required twenty feet (20') side setback and twenty-eight feet (28') of the required thirty feet (30') setback and eleven percent (11%) over the maximum allowed building coverage of fifteen percent (15%) and nine percent (9%) over the maximum allowed lot coverage of twenty-five percent (25%) as required in Section 198-18 of the By-Laws for the following reasons;

- 1.0 The lot size is small, grade elevations are uneven and the new dwelling will be on the exact same footprint. Not granting the Variance would create a hardship.
- 2.0 Granting this relief will not derogate from the intent and purpose of the By-Law.
- 3.0 Granting this relief will not adversely affect the zoning district in which it is located.

Peter DeTerra,  
Chairman