



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

July 5, 2011

The Fairhaven Board of Appeals met on July 5, 2011 at 6:00 PM at the Fairhaven Town Hall. Members present were: Mr. Joseph Borelli, 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: John W. Folino 15-28 Arsene Way Plat 28/30A, Lot 2A/1A Book 4537, Page 24
Applicant seeks to modify existing Special Permit to allow for limited retail sales.

The petition was read. There were 30 abutters notified. Mr. Joseph Borelli, acting chairman, disclosed that he is the Council On Aging Chairman and responsible for the keeping of that building which abuts the property in discussion. There was no objection to Mr. Borelli remaining as chair for the hearing. The petitioner presented a written statement which gave a brief history of the business site and his request to allow limited retail sales on site when the sales are associated with the service based businesses occupying the building. A potential occupant, Christopher A. Buzniak, owner of Tile Craft, wrote a letter in support of the request as it would assist his intended business move to the site. Both statements are part of this record.

In Favor: The petitioners
Opposed/Questions: None


Mr. Wayne Fostin, Building Commissioner, stated that when the original Special Permit was granted for the site in 1986, no retail was allowed because the Board had allowed a reduction in the number of parking spaces. The present request is merely to allow retail sales that are incidental to the service based businesses that occupy the building. Mr. Fostin stated he routinely reviews the types of businesses that occupy the site because business certificates must be issued to each new business. The petitioner stated that the condo business covenants restrict the types of businesses allowed. Mr. Fostin did recommend that the Board condition the permit so that no auto repair may be done.

Motion to modify the existing Special Permit with the conditions that no auto repair is to be allowed and that only service based businesses may occupy, that is specifically, there are to be no retail businesses allowed was made by Mr. Fleurent; seconded by Mr. Morra.

Board members voting to grant the Special Permit as conditioned: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Borelli and Mr. Kendall.

The Board voted 5-0 to modify the existing Special Permit to allow for limited retail sales with the following conditions: (1) no auto repair is allowed, (2) only service based businesses are allowed and (3) no retail businesses are allowed. The modified Special Permit is allowed for the following reasons:

- 1.0 Not allowing the modified 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.


Joseph Borelli,
Acting Chairman



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Petitioner: Christopher Heaven 19 Brook Drive Plat 31, Lot 116 Book 4392, Page 113
198-23-B A Special Permit is required for a Home Occupation as an electrician.

The petition was read. There were 30 abutters notified. The petitioner would like to operate a business office from his home. There will be no signs, no trash, no material stored. His truck has a logo on it.

The By-Law requirements for a home occupation were read. Mr. Borelli, acting-chairman, asked the petitioner if he understood the requirements. The petitioner responded he did and would abide by them.

In Favor: The petitioner

Opposed/Questions: Mr. & Mrs. Picard, 22 Brook Drive questioned if this will change the zoning in their district. Mr. Borelli stated only Town Meeting could do so and should the Board of Appeals grant this Special Permit, it would allow only for the use requested. Mr. Chevalier, 21 Brook Drive requested a copy of the by-laws.

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

Board members voting to grant the Special Permit: Mr. Cox, Ms. Cook, Mr. Manchester, Mr. Morra and Mr. Borelli.

The Board voted 5-0 to grant the Special Permit to operate a Home Occupation as an electrician required in Section 198-23-B of the By-Law for the following reasons:

- 1.0 The petitioner will be compliant with the requirements of the By-Law. 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.


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Petitioner: Dorann Cohen 83 Raymond Street Plat 29D, Lot 88 Certificate #20566
198-18 Short 4' on the west side and 2' on the north side of the required 30' front setback, short 10' of the required 20' side setback and 9% over the maximum allowed building coverage of 15% all within a RR District.

The petition was read. There were 28 abutters notified. The petitioner would like to construct a covered front porch. The existing 5' x15' front porch is small for use and she would like a 10' deck the length of the house.

In Favor: The petitioner and Mr. Lomp of 21 Buist Avenue.

Opposed/Questions: None

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

Mr. Borelli noted the measurements shown on the plan were incorrect, however it does not affect the variance request.

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

The Board voted 5-0 to grant the Variance of four feet (4') on the west side and two feet (2') on the north side of the required thirty feet (30') front setback and ten feet (10') of the required twenty feet (20') side setback and nine percent (9%) over the maximum allowed building 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. 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.


Joseph Borelli,
Acting Chairman