



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

December 6, 2011

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

Petitioner: Michael Ristuccia 156 Cottonwood Street Plat 43A, Lot 79 Certificate #22499
198-18 Short 10' of the required 20' side setback in a RR District.

The petition was read. There were 48 abutters notified. The petitioner stated the Board had granted the requested variance at a prior meeting for the reconstructed house but as construction progressed the variance was not needed at that time and the variance timeframe has lapsed. Now, in order to place a platform for exterior stairs, he requires the variance as requested.

In Favor: Mr. Ristuccia

Opposed/Questions: None

Motion to grant the Variance was made by Mr. Silva; seconded by Mr. Kendall

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

The Board voted 5-0 to grant the Variance of ten feet (10') of the required twenty feet (20') side setback in a RR District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is small and a variance is required for construction of the stair platform. 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: Paul C Schoffield 14 Crescent Drive Plat 29D, Lot 110 Certificate #20389
198-18 Short 4' of the required 30' front setback, short 2' on the west and 4' on the east of the required 20' side setback and
2% over the maximum allowed building coverage of 15% all within a RR District.

The petition was read and there were 45 abutters notified. The petitioner stated he was granted the exact variances in 2010 but due to a water supply issue could not secure a building permit until just recently when he was informed the variance timeline had lapsed. He has been diligently working on the matter since November 2010. He intends to construct the exact house that was presented to the Board in 2010.

In Favor: Mr. Schoffield

Opposed/Questions: Mr. Carvalho, 16 Crescent Drive, asked for reassurance that the height of the dwelling had not changed from the initial approval. The height remains the same at 16'.

Motion to grant the Variance with the same conditions stipulated in October 2010 that the dwelling is to be no higher than 18.5' and the finished grade is to be no higher than elevation 10.0 was made by Mr. Cox; seconded by Mr. Morra.

Members voting to grant the Variance as conditioned: Mr. Manchester, Mr. Cox, Ms. Cook, Mr. Silva and Mr. Fleurent, Jr.

The Board voted 5-0 to grant the Variance of four feet (4') of the required thirty feet (30') front setback, two feet (2') on the west and four feet (4') on the east of the required twenty feet (20') side setback and two percent (2%) over the maximum allowed building coverage of fifteen percent (15%) with the conditions that the dwelling be no higher than eighteen and one-half feet (18.5') and the finished grade be no higher than elevation ten (10.0) as required by Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is small and a variance is required for construction of the dwelling. Not granting the Variance does 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: Katherine R. Faria 2 Day Street Plat 28, Lot 43 Certificate #14477
198-18 Short 3' of the required 10' west side setback in a RA District.

The petition was read. There were 37 abutters notified. Mrs. Faria would like to add another bedroom so that her daughter can stay with her if needed and her grandson can visit and have his own room. The lot is small and a variance is required for the addition.

In Favor: Mrs. Faria

Opposed/Questions: None

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

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

The Board voted 5-0 to grant the Variance of three feet (3') of the required ten feet (10') west side setback in a RA District as required in Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is small and a variance is required for construction of the addition. 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: Stevan & Faith Piazza 10 Shady Drive Plat 38, Lot 3A Book Certificate #17592
198-19B No boundary fence, wall or hedge shall exceed 42" in height within a required front yard.

The petition was read. There were 11 abutters notified. The petitioner stated this is a dead end street of ten houses. The arborvitae in question are 11' from the road and were there in this condition when the Piazza's moved in 20 years ago. The hedge gives privacy to the front of the house where the living room and his daughter's bedroom are. There is only one house where there are children and it is across the street from the Piazza's. That owner wrote a letter which was read and is part of this record, stating he is not opposed to the existing hedges. All neighbors but the complainant at 8 Shady Drive are not opposed to the hedges. Photos were provided which are part of this record.

In Favor: The Piazza's. Kathy Boucher, 18 Shady Drive, stated she has trees on either side of her driveway and no one complains about them.

Opposed/Questions:

Laurie Boucher, 8 Shady Drive, stated the hedges do pose a safety risk for people walking down the street.

Mike Coury, 8 Shady Drive, stated the Piazza's run a business out of their home and there are cars in and out all day. 8 Shady Drive has no street vision and it does pose a safety issue. He questions if this is not the intent of this by-law.

The Board reviewed the photos provided.

Motion to grant the Variance to allow the hedges as existing was made by Mr. Fleurent, Jr; seconded by Mr. Morra.

Board members voting to approve the Variance to allow the hedges as existing: Mr. Morra, Mr. Fleurent, Jr., Ms. Cook, Mr. Manchester and Mr. Cox.

The board voted 5-0 to grant a Variance of Section 198-19B of the By-Laws and to allow the hedges as existing for the following reasons:

- 1.0 The hedges have been in their present state for at least 20 years. 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: Antonio F & Valentina L DaCunha 8 Windward Way Plat 29, Lot 2C Book 7806, Page 277
198-18 Short 3' of the required 30' front setback, short 10' on the north of the required 20' side setback in a RR District.

The petition was read and there were 13 abutters notified. The petitioner was represented by Jeff Tallman, P.E. of SITEC Engineering, Dartmouth, MA. The petitioners would like to construct a garage with habitable space above and a rear addition for a total of 392 square feet. The plans have been approved by the Conservation Commission and Board of Health for septic. The variance is required due to the lot size, flood zone and placement of the existing structure on the lot.

In Favor: Mr. & Mrs. DaCunha

Opposed/Questions: None

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

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

The Board voted 5-0 to grant the Variance of three feet (3') of the required thirty feet (30') front setback, ten feet (10') on the north 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 is small and a variance is required for an addition to the dwelling. Not granting the Variance does 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