

January 3, 2012

The Fairhaven Board of Appeals met on January 3, 2012 at 6:00 PM at the Fairhaven Town Hall. Members present were: Mr. Rene Fleurent, Jr., Mr. Kenneth Kendall, Mr. Al Silva, Mr. Fran Cox, Mr. Peter DeTerra, Mr. Daryl Manchester and Ms. Peg Cook. The following petition was considered:

Petitioner: JoAnn Gisborne for Doris R. Gallagher 57 Nakata Avenue Plat 43, Lot 105 Book 9195, Page 118
Special Permit Special Permit is required for continuation of a grandfathered travel trailer located in a VE flood zone.

The petition was read. There were 26 abutters notified. Ms. Gisborne represented her mother Doris Gallagher, owner of the property. She would like to renew the five year special permit to allow their travel trailer on their flood zone property from May 1 to October 31. The permit has been in place and properly renewed since 1991. When not on the property the trailer is stored at Ms. Gisborne's property on Massasoit Avenue.

In Favor: Ms. Gisborne

Opposed/Questions: None

Motion to grant the Special Permit for five years was made by Mr. Kendall; seconded by Mr. Cox

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

The Board voted 5-0 to grant a Special Permit for five (5) years for continued seasonal use of a grandfathered travel trailer in a VE flood zone as required in the By-Law for the following reasons:

- 1.0 The request is for a continued grandfathered use which has been granted since 1991. 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: Peter J. & Dorothy Pinto 15 Daniel Street Plat 22, Lot 190-193 Book 5594, Page 66
Special Permit A Special Permit is required for continuation of a pre-existing two-family dwelling in a RA District.

The petition was read. There were 73 abutters notified. The petitioner was represented by their son Steve Pinto. A letter of explanation for the request is part of this record. The request is to continue the use of a two-family dwelling in the manner that it is currently used. The first floor has three bedrooms and is large. It was used by an aunt and grandmother as two separate apartments. One relative is now deceased and the other requires additional care away from the home. The family would like to continue using the first floor as a two apartment rental due to the difficult economic times. The house will not change in structure.

In Favor: Mr. & Mrs. Peter Pinto, Mr. Steve Pinto, Mr. Frank Faria, 21 Daniel Street

Opposed/Questions: None

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

Board members voting to grant the Special Permit: Mr. Manchester, Ms. Cook, Ms. Cox and Mr. Kendall
Board member voting not to grant the Special Permit: Mr. Rene Fleurent, Jr.

The Board voted 4-1 to grant the Special Permit for continuation of a pre-existing two family dwelling in a RA District as required in the By-Law for the following reasons:

- 1.0 The request is for a continued use which was granted in 1986. 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: Michael Edwards 113 Cottonwood Street Plat 43A, Lot 194-195 Certificate #22549
198-18 Short 5' of the required 20' north & south side setbacks and 1% over the maximum allowed lot coverage of 15% in a RR District.
Special Permit A Special Permit is required for expansion of use of a non-conforming lot.

The petition was read. There were 57 abutters notified. The petitioner would like to demolish the house which is condemned and construct a new dwelling to current code. The new dwelling is intended for sale. Plans were presented and are part of the record.

In Favor: Mr. Edwards

Opposed/Questions: None

Motion to grant the Special Permit was made by Mr. Silva; seconded by Mr. Fleurent, Jr.
Members voting to grant the Special Permit: Mr. Manchester, Ms. Cook, Mr. Cox, Mr. Kendall and Mr. Silva

Motion to grant the Variance was made by Mr. Cox; seconded by Mr. Fleurent, Jr.
Members voting to grant the Variance: Mr. Manchester, Ms. Cook, Mr. Cox, Mr. Silva and Mr. Fleurent, Jr.

The Board voted 5-0 to grant the Special Permit for expansion of use of a non-conforming lot and to grant the Variance of five feet (5') of the required twenty feet (20') north and south side setbacks and one percent (1%) over the maximum allowed lot coverage of fifteen percent (15%) all in a RR District as required by the By-Law and Section 198-18 of the By-Law for the following reasons:

- 1.0 The lot is a narrow lot and placement of the dwelling requires a Variance. The lot cannot conform to existing requirements and requires a Special Permit for its use. Not granting the Variance and 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: Linda Wordell 40 Point Street Plat 28B, Lot 118,119,120,129 Book 1678, Page 415
198-18 Short 4' of the required 20' front setback in a RA District.

The petition was read. There were 63 abutters notified. John Cusson, project manager, represented the owner who would like to build a 22'x18' carport and a farmer's porch at the front of the dwelling which currently has a narrow entry stoop. The carport and farmer's porch will be set back 16' from the street instead of the required 20' because of the location of the house on the lot.

In Favor: the Petitioner

Opposed/Questions: Nora Homsey, 15 Hathaway Street, in writing which is part of this record.

Motion to grant the Variance with the condition that the carport be 22' deep by 18' wide and 16' from the east property line was made by Mr. Cox; seconded by Mr. Fleurent, Jr.

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

The Board voted 5-0 to grant a Variance of four feet (4') of the required twenty feet (20') front setback as required in Section 198-18 of the By-Laws for the following reasons:

- 1.0 The existing house location on the lot requires a Variance for the placement of the proposed carport and farmer's porch. 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

January 3, 2012

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Mr. Scott Hyman, owner of 54 Bayview Avenue, identified himself to the Board. He stated he had been before the Board in December 2010 because he had placed a storage shed on a property line and was informed by the Building Commissioner that he had to remove the shed or get a construction permit with a variance from the Board to place the shed at its present location. The Board heard the request in December 2010 and required additional information with a continued hearing to January 2011. Mr. Hyman did not attend the January 2011 hearing and no additional information was provided. Therefore the Board did not grant the required variance. Mr. Hyman subsequently was informed by the Building Commissioner that the shed must be removed. The situation is now in housing court where Mr. Hyman was informed by the Court Magistrate that he must either get approval from the Town for the shed to remain or the court will continue action on the matter in a pre-trial conference on January 9, 2011. Mr. Hyman is now requesting the Board allow him to be heard again on the matter.

Chairman DeTerra explained that once a variance is denied by the Board, the applicant has twenty days in which to appeal that decision in Superior Court. Mr. Hyman did not appeal the decision. Nothing can be done by the Board of Appeals for two years from the date of the original petition. Mr. DeTerra further stated that the only other avenue remaining is for Mr. Hyman to seek a repetitive petition request of the Planning Board. The project must be substantially different from the original request in order to be reviewed by the Planning Board. Mr. Hyman continued with questions and statements as in his opening statement to the Board.

Board member Daryl Manchester restated what the chairman had said clearly stating that the Board of Appeals has no jurisdiction in this matter any longer. Mr. Hyman must seek relief either through the Planning Board and a possible repetitive petition or through housing court.

Motion to adjourn meeting at 6:25 was made by Mr. Cox; seconded by Mr. Fleurent, Jr.

Respectfully,
Patricia Fowle,
Clerk for the Board of Appeals