

MINUTES OF BOARD OF APPEALS MEETING OF July 3, 2012: Town Hall Banquet Room

I. ADMINISTRATIVE BUSINESS

Chairman Peter DeTerra – Opened the meeting at 6:00 p.m.

Quorum/Attendance

Members Present – Chairman Peter DeTerra, Vice-Chairman Joseph Borelli, Daryl Manchester, Francis J. Cox, Peg Cook, Rene Fleurent, Jr. (Assoc.), Kenneth Kendall (Assoc.), Al Silva (Assoc.)

Absent – Joseph Morra (Assoc.)

Minutes: Chairman DeTerra asked for a motion to accept the minutes. Mr. Fleurent, Jr. stated he would like to amend the minutes and add that Attorney DesNardis for the Arsene Street petition was asked by the chairman to leave a set of plans she had presented as part of the record to which she refused. The chairman then asked for a copy of the plans and she refused. Mr. Fleurent, Jr. requested a letter be sent to the attorney requiring a copy of the plans which by law are required as part of the record. In the petition for 54 Bayview Avenue Mr. Fleurent, Jr. had identified himself as a member of the Fairhaven Planning Board. Mr. Fleurent, Jr. motioned to accept the minutes as amended. Mr. Cox seconded. The vote was unanimous.

Bills: Fairhaven Neighborhood News, legal advertisement

Chairman DeTerra noted that Member Peg Cook has been reappointed.

Chairman DeTerra motioned to open a Reorganization Meeting. Mr. Cox seconded. The vote was unanimous. Mr. Fleurent, Jr. nominated Mr. DeTerra as chairman. There were no other nominees. Mr. Cox seconded. The vote was unanimous. Mr. Borelli nominated Mr. Cox as vice-chairman. There were no other nominees. Mr. DeTerra seconded. The vote was unanimous. Mr. Silva motioned to close the Reorganization Meeting. Mr. Cox seconded. The vote was unanimous.

II. PUBLIC HEARING:

1. Petitioner: Michael Bobola , Maple Avenue, Plat 3, Lots 85, 86; Book 9572, Page 255 and Book 8737, Page 211; 198-18: Short 55' of the required 100' frontage and 11,820 square feet short of the required 15,000 square feet in a RA District.

This is a continued hearing from June 5, 2012. Mr. Manchester removed himself from the hearing. Mr. Fleurent, Jr. motioned to open the hearing. Mr. Cox seconded. The vote was unanimous.

Chairman DeTerra read a response letter from Town Counsel Michael Kennefick which is part of this record. Attorney Beauregard presented a letter of conditions that the Board could require if the variance is approved. The letter was read and is part of this record. Attorney Beauregard said the Town Counsel's response did not address the issue of the variance request. He requests the Board apply relief from the financial hardship by treating the lots as they have been historically.

Chairman DeTerra stated you cannot have an accessory structure without a principle building on a lot. Once the property was sold and brought into compliance it cannot be made into two non-conforming lots. The financial hardship was created by the owner. Attorney Beauregard stated the Board can give relief from the burden. Ms. Booth, 8 Maple Avenue, questioned what the financial hardship is without offering proof to the Board.

Mr. Fleurent, Jr. motioned to grant the variance. Mr. Borelli seconded. Board members voting to grant the variance: None. Board members voting to deny the petition request: Mr. Fleurent, Jr., Mr. Kendall, Ms. Cook, Mr. Borelli and Mr. Cox. The petition fails and is denied by a vote of 0-5.

2. Petitioner: Norman D. Shurtleff, Judson Drive, Plat 31A, Lot 3A; Book 9584 and Page 218; 198-22-Accessory Building A1: 1,700 square feet over the maximum allowed of 700 square feet. Special Permit: A Special Permit is required to have an accessory building without a principle building.

The petitioner was represented by Marco Pereira. A site plan was presented. The proposed 60'x40' two story storage structure will be placed 10' from the north property line. The petitioner plans on constructing a home on the lot in the near future but needs the storage area for his cars, sports equipment and the like. The building will have four garage bays and a door on either end for lawn equipment. His goods are currently stored in a rented garage from which he was asked to vacate. The need is immediate. He would like to construct the storage building for the winter and build his home next summer.

Cheryl Defelice, 10 Judson Drive is in favor. An abutter on Judson Drive questioned where the access to the structure would be. The petitioner stated from Judson Drive. A letter of opposition from Wayne Hayward, 48 Gellette Road, was read and is part of this record.

Mr. Fleurent, Jr. asked if this was a two story structure and its height. The petitioner stated it is a two story structure with a 24' height. Mr. Fleurent, Jr. stated the calculations advertised are therefore incorrect. A larger square feet variance is required as well as a height variance which had not been advertised. Wayne Fostin, the Building Commissioner, stated when the petition was submitted he did not have the plans that were presented this evening. Mr. Pereira stated there is another large structure at 35 Gellette Road that is similar to the request. Chairman DeTerra stated that particular garage was placed prior to zoning changes. The petitioner stated there was some confusion in the directions he was given and this has lead to the misunderstanding on the variance request. The Chairman noted that the advertisement for the hearing was incorrect and stated the Board could no longer hear the petition because of the discrepancies and asked the petitioner if they would like to withdraw without prejudice.

Mr. Pereira consulted with the petitioner and requested that the petition be allowed to be withdrawn without prejudice so it can be resubmit for review and re-advertising.

Mr. Fleurent, Jr. motioned to allow the petition to be withdrawn without prejudice. Mr. Cox seconded. The vote was unanimous. The petition was withdrawn without prejudice.

3. Petitioner: Stephen A. Neron, 2 Cowen Street, Plat 11, Lot 133; Book 9456 and Page 224; 198-18: Short 19'6" of the required 20' front setback and 6% over the maximum allowed lot coverage of 30% in a Mixed Use District.

The petition was read and there were 52 abutters notified. The petitioner was represented by Joe Taylor, 91 Dogwood Street, Fairhaven who stated he is a member of the Conservation Commission and former member of the Board of Appeals. The petitioner would like to add a small, second floor, front-facing, cantilevered deck to his home on Cowen Street. Most of the houses along this street come just to the sidewalk and this is his request. The deck will be 6" from the fence and 12" from the sidewalk. He lives alone, the house is small and this will add enjoyment to his property. He can see the water from this proposed view.

Mr. Fleurent, Jr. asked Wayne Fostin, Building Commissioner, what the height of the deck base floor would be. 17'

Mr. Cox motioned to grant the Variance. Mr. Silva seconded.

Members voting to grant the Variance: Mr. Manchester, Mr. Cox and Mr. Silva. Members voting to not to grant the Variance: Mr. Borelli and Ms. Cook. The petition fails and is denied by a vote of 3-2.

4. Petitioner: Laurie M. Pacitto, 166 Cottonwood Street, Plat 43B, Lot 114; Certificate #22604 198-18: Short 10' of the required 20' south side setback and 5% over the maximum allowed building coverage of 15% in a RR District.

The petition was read and there were 48 abutters notified. The petitioner has recently renovated her home and would like to now renovate and update her deck in the same footprint. This would allow for more outdoor living space. Mr. Borelli asked what level the deck base would be. Same as present.

Mr. Cox motioned to grant the Variance. Mr. Fleurent, Jr. seconded. Members voting to grant the Variance: Ms. Cook, Mr. Borelli, Mr. Manchester, Mr. Cox & Mr. Kendall. The petition passes and is granted by a vote of 5-0.

III. OTHER BUSINESS: None

ADJOURNMENT

Mr. Kendall moved to adjourn the meeting. Mr. Cox seconded. The vote was unanimous. The meeting was adjourned at 7:10 PM.

Respectfully Submitted,
Patricia Fowle, Secretary
To the Board of Appeals